

CIVIL RIGHTS—PUBLIC ACCOMMODATIONS

15-80—

HEARINGS
BEFORE THE
COMMITTEE ON COMMERCE
UNITED STATES SENATE
EIGHTY-EIGHTH CONGRESS
FIRST SESSION
ON
S. 1732

A BILL TO ELIMINATE DISCRIMINATION IN PUBLIC
ACCOMMODATIONS AFFECTING INTERSTATE COMMERCE

PART 2

JULY 23, 24, 25, 26, 29, 30, 31; AUGUST 1 AND 2, 1963

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CIVIL RIGHTS—PUBLIC ACCOMMODATIONS

TUESDAY, JULY 23, 1963

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee reconvened at 9:15 a.m. in room 318 (caucus room), Old Senate Office Building, Hon. A. S. Mike Monroney presiding.

Senator MONRONEY. The Committee on Commerce will resume its hearings on the bill S. 1732, to eliminate discrimination in public accommodations affecting interstate commerce.

We have as our principal witness today the Acting Secretary of Commerce, Mr. Franklin D. Roosevelt, Jr. We would appreciate having your statement at this time.

Senator COTTON. Mr. Chairman.

Senator MONRONEY. The Senator from New Hampshire.

Senator COTTON. If the Secretary would forgive me: I have one question I would like to raise with the acting chairman before we proceed with the hearing.

It is most unfortunate that our chairman is ill. We all hope that his recovery will be rapid and complete.

We find ourselves, this committee, at this particular time, facing the problem of dealing both with the civil rights legislation and the President's railroad bill, both of which are about as important and vital issues as have faced Congress in a long time. However, in the case of the railroad legislation, there is also the fact that the Congress faces a time deadline of a week, which probably is impossible to do and probably undesirable because certainly Congress should give this problem as careful scrutiny as the President has, and the President has had 6 months and Congress couldn't do it in a week.

But for the convenience and for the information of the members of the committee, I'm wondering if it has been determined what the policy of this committee is going to be in the handling of these two issues. I understand we will meet this afternoon on the railroad bill. Are we going to recess the hearings on civil rights and devote the full time, as we are allowed outside the Senate session, to the railroad bill? Or are we going to divide up our time between the two and carry one on each shoulder? What is going to be the policy of the committee?

Could the acting chairman give us some information on that point?

Senator MONRONEY. I will say to the distinguished Senator from New Hampshire that in the illness and absence of the chairman of the committee, Senator Magnuson, Senator Pastore is acting chairman of the committee and is unavoidably detained this morning. I think, when the committee meets this afternoon at 2 as scheduled on

the railroad bill, that Senator Pastore will undoubtedly take up with the members of the committee their desire to expedite the President's request for hearings on the railroad bill. We will have to determine what we can do about completing the hearings that we have been engaged in for the past several weeks on the civil rights bill.

Until we have our meeting and the committee can get together to hear what Senator Pastore's plans are, I am unprepared to give the Senator the advice that he seeks on what our policy should be.

In the past this committee has handled many important duties and assignments, and often with two or three important cases pending before it, while not of the same urgency as these two matters presently before us. The chairman has always been most considerate in ascertaining the wishes and desires of the membership of the committee in order to accommodate the work of the committee to their schedule.

Senator CORRON. The chairman always has been most considerate, and so has the distinguished Senator from Rhode Island, Mr. Pastore, and so has the distinguished Senator from Oklahoma, Mr. Monroney. I want it distinctly understood that I am not complaining, nor am I trying to in any way make the progress more difficult.

However, I doubt if ever in the history of this or perhaps of any other committee of the Senate, certainly in peacetime, has one committee been burdened with two such pressing, urgent, controversial, and delicate problems. I would hope that the acting chairman would indicate to Senator Pastore and to those on the majority side of the committee who control, naturally, and should control its deliberations, that we should have, as soon as possible, and sometime today, an executive session of the Committee on Commerce to determine just how we are going to proceed to field, if I may use that expression, to handle and to meet these two problems that face us.

As far as I am concerned, I want to cooperate in every way. I'm willing to be present at evening sessions, to do anything that is necessary. But I think we should all sit down in executive session and work this matter out. I do assume, from what the distinguished acting chairman has told me, that it is still a little bit questionable what a member can say to his constituents and others who are seeking to appear before the committee until this is thoroughly determined.

Am I correct in that?

Senator MONRONEY. I would say that is absolutely correct, and we don't know how many witnesses we will be able to accommodate. Undoubtedly the numbers who have applied to testify on the civil rights bill are so numerous and will probably keep us so busy for the next 2 weeks that we would not likely be able to schedule more witnesses in that case. We do not know who wishes to be heard in the railroad case. Therefore that is still subject to the determination of the full committee or of the chairman, if the committee wishes to give him that discretion.

Senator CORRON. Will the acting chairman transmit the suggestion and the hope that we can have an executive session some time during the day?

Senator MONRONEY. I think it is a very good idea. I'm certain that the acting chairman, Senator Pastore, will be, as he always is, quite willing to follow the wishes of the minority. I think most of the majority would agree with the distinguished Senator from

New Hampshire that we do need to make some plans on how we are going to handle these two big packages of legislation.

Senator COTTON. Thank you, Mr. Chairman, for your courtesy.

Senator MONRONEY. Thank you, Senator Cotton.

You may proceed.

Senator COTTON. I apologize to the Secretary for the delay.

Senator MONRONEY. Mr. Secretary, you may proceed with your statement.

STATEMENT OF HON. FRANKLIN D. ROOSEVELT, JR., UNDER SECRETARY OF COMMERCE, DEPARTMENT OF COMMERCE

Mr. ROOSEVELT. Thank you, Mr. Chairman and members of the committee.

First, Mr. Chairman, I would like to say that I have had the devoted assistance in the preparation of this testimony of my associates, the Assistant Secretary of Commerce for Economic Affairs, Dr. Richard Holton; the Deputy Assistant Secretary for Economic Affairs, Dr. Andrew Brimmer, on my left, and the Assistant General Counsel, Mr. Dean Lewis.

With the chairman's permission, if at anytime during the questioning I am unsure as to the exact answer, I trust that it will be in order for me to turn and ask for their advice.

Mr. Chairman, I appreciate this opportunity to appear before your committee in support of S. 1732, the public accommodations bill.

The main theme of my statement is the adverse effect of racial discrimination in public accommodations on interstate commerce, and the evidence we present leaves no doubt in our minds on this point. But let me say at the outset that we in the Department of Commerce support this legislation primarily because we believe that discriminatory practices are inconsistent with our democratic ideals and cannot continue to be tolerated in a democratic society. We believe, as the President has said, that we have a moral obligation to pursue this end.

In my personal view I think all of us must understand and recognize the changing mood of the American Negro community. We must recognize that their impatience and unrest spring from real and longstanding grievances. The denial of their rights to use public accommodations is only one of many accounts which require settlement now. The corrosive experience of Negroes with discrimination over many years—in voting, employment, education, housing as well as public accommodations—has placed a cumulative burden on the individual Negro citizen far greater than that placed on interstate commerce. I think we have the moral responsibility to remove that burden immediately. I am certain that all of us in the Federal Government from the President on down clearly see the necessity for pressing ahead with this task as rapidly as possible.

With particular respect to the legislation at hand, we believe it is fundamental that all citizens should have equal access to places of public accommodation, including hotels, motels, restaurants, theaters, retail stores, amusement and recreational facilities and other businesses offering to the general public goods and services which are a

vital part of interstate commerce. Stated so simply, this sounds like a platitude. For the vast majority of people it is nothing more than that. But for virtually every Negro citizen—and for many other citizens, including Puerto Ricans, Chinese, Japanese, Indians, and persons of Mexican descent—the absence of this right is one of the most galling facts of life in the United States today.

The simple fact is that for them equal access to public accommodation does not exist as a general and ordinary matter anywhere in the country. Even in the North, Midwest, and Far West, where the denial of equal treatment is less obvious than in the South, all public accommodations are by no means fully available. But the really critical obstacles are in the South. Despite the numerous instances of desegregation reported in the last few months, the general rule in these States is one of discrimination and the virtually total exclusion of Negroes from a wide range of places of public accommodation. Moreover, while we applaud the apparent progress made by business and civic leaders in a number of forward-looking communities in the South, such as Atlanta, Dallas, Miami, and Richmond, we believe the overall efforts so far are insufficient in relation to the tremendous magnitude and urgency of the task before us. No one is unaware of the fact that the question has become of explosive national concern in recent months and is crying for an answer.

We believe this legislation is indispensable in the solution of this problem.

We believe that it is required because the record clearly shows that State and local actions are insufficient to carry the burden of desegregation at a pace adequate to cope with the present rapidly moving situation.

We believe that it is required because voluntary action by businessmen—where businessmen have undertaken to desegregate their establishments—has proved too difficult and too sporadic to eliminate discrimination in the near future.

We believe that it does not constitute an unwarranted interference with property rights. Rather we accept without reservation the President's position that the duties of property holders using their property to earn a profit through serving the general public require that they respect human rights and refrain from arbitrary racial discrimination.

In short, it is my belief that S. 1732, the proposed public accommodations legislation which this committee is now considering, is an essential element of our response to the demands of the situation.

So, the narrow question before this committee in considering S. 1732 is whether it is right and proper to base this legislation on the constitutional authority of Congress to regulate interstate commerce, as well as on the 14th amendment.

I am not going to go into the legality of this use of the commerce power at any length. The Attorney General has testified fully on it, and he either has submitted to the committee, or is about to submit, his definitive legal opinion on the subject.

I am convinced that this use of the commerce power is completely constitutional. We use the commerce power to prohibit interstate transportation of women for immoral purposes—and I might point out that is an instance of using the commerce power on a purely moral issue, if there ever was one. We use the commerce power to

prohibit sales of narcotics. We use the commerce power to control minimum wages and to prohibit the use of child labor. We use it, as the Attorney General has pointed out, to control the service of oleomargarine in public facilities and to require the labeling of aspirin. We have even used it to control the amount of wheat a farmer may grow for his own consumption. If we can constitutionally use the commerce clause for all these purposes, then I do not have any doubt that we can also use it to establish by law the rights of Negroes to have free access to public accommodations. This, as I think my statement will show, may affect the free flow of interstate commerce far more than some of the matters I have mentioned above.

The question is not whether we can lawfully invoke the commerce power; the question is whether we should. I believe we should. I think it is appropriate because I think the free flow of interstate commerce is importantly involved in the segregation issue. In an economy of increasing mobility and interdependence, businesses which offer public accommodations—such as hotels, motels, restaurants, retail stores, theaters, gasoline stations, and similar enterprises—are increasingly and substantially catering to interstate travelers as well as to local citizens. Clearly therefore racial discrimination practiced by these firms affects interstate commerce. It imposes an unwarranted burden on interstate commerce in two ways.

In the first place, segregation imposes unnatural limitations in the conduct of business which are injurious to the free flow of commerce. It inhibits businessmen in making rational investment decisions; it compels wasteful and uneconomic duplication of resources; it may even spell the failure of numerous marginal businesses, because segregation limits their opportunity to draw fully upon their natural markets. This legislation will help to remove this burden.

In the second place, the current instability and unrest swirling about various places of public accommodation from time to time is directly injurious to interstate commerce. We live in a time of racial unrest, gentlemen, and this unrest is not going to dissipate without assistance. Voluntary efforts have been helpful, but they are not doing the job. I am satisfied that broadly applicable legislation such as this will solve the problem more neatly, more cleanly, and more quickly than half measures, unevenly undertaken. For that reason, I think that by and large our businessmen, North and South, will welcome it.

Let me indicate for you briefly the facts as to the significance of segregation for interstate commerce.

EVIDENCE OF BURDENS ON INTERSTATE COMMERCE

When our staff began to examine the question of the adverse effects on interstate commerce of discrimination in public accommodations, it quickly became evident that detrimental effects not only exist but are in fact considerable. These include (1) obstacles to interstate travel; (2) distortions in the pattern of expenditures by Negroes because of limited access to places of public accommodations; (3) limitations on the ability of organizations to hold national and regional conventions in convenient places; (4) adverse effects in the

entertainment field; (5) disruptions in trade resulting from demonstrations protesting discrimination in retail establishments, and (6) numerous other hurdles to the normal conduct of business—for example, difficulties in recruiting professional and skilled personnel and rejection of otherwise desirable plant locations.

We are prepared to supply evidence, obtained through informal inquiries by Commerce Department field offices and otherwise, to support each of these positions.

BURDEN OF DISCRIMINATION IN PUBLIC ACCOMMODATIONS ON INTERSTATE TRAVEL

First, let us look at the damage done to interstate travel. There is a tremendous volume of such travel, running into billions of passenger miles annually. The Bureau of Public Roads in the Department of Commerce estimates that in 1957 about one-seventh of all the passenger car traffic on the Federal-aid highway system consisted of out-of-State cars. These figures are shown in table I.

In the fourth line it shows (under the column "Rural" we mean intercity) 16 percent of all travel on Federal highway systems was interstate; in "Urban" or intracity, over 9 percent were interstate passenger vehicles and the total for all Federal systems is 14 percent, or one-seventh.

(The table follows:)

TABLE I.—Percentage of all passenger car travel, by out-of-State passenger cars, by highway system, 1957

Highway system	Rural	Urban	Total
Interstate.....	25.8	10.8	19.9
Other Federal aid, primary.....	17.9	9.2	15.3
Federal aid, secondary.....	6.9	5.8	6.7
All Federal-aid systems.....	16.0	9.1	14.0
Other than Federal aid (including toll roads).....	8.1	4.6	5.7
All roads and streets.....	14.2	6.8	10.7

Source: From highway cost allocation study data for 1957, Bureau of Public Roads 28-26.

To provide a rough measure of the amount of interstate highway travel along routes in the South, where the public accommodations problem is most acute, the Bureau was asked to estimate out-of-State traffic along certain selected routes and these estimates are for quite some time ago: (1) Washington, D.C., to Florida; (2) Chicago to New Orleans, and (3) Washington, D.C., to New Orleans. Information collected during the summer months of 1962 shows the following:

WASHINGTON, D.C., TO FLORIDA

At a location in Virginia on U.S. 301, 80 percent of the passenger cars had out-of-State registrations.

In North Carolina on U.S. 1 approximately 25 miles north of Raleigh, 43 percent of all passenger cars were from other States.

(The preceding two locations are on the traveled route of the Interstate System.)

In South Carolina on U.S. 17 and 321, about 10 miles north of the Georgia line near Savannah on the traveled route of Interstate 95,

83 percent of all passenger cars were registered in States other than South Carolina.

In Georgia on U.S. 1 and 301, 4 miles north of the Florida line and 50 miles north of Jacksonville, 36 percent of all passenger cars were from other States.

In Florida on U.S. 1, the traveled route of Interstate 95, 20 miles south of Daytona Beach, 49 percent were out-of-State passenger cars.

CHICAGO TO NEW ORLEANS

In Illinois, on U.S. 51, the traveled route of Interstate 57, 4 miles north of Cairo, 30 percent of the passenger cars were from States other than Illinois.

In Kentucky on U.S. 51, about 2 miles north of the Tennessee line, 60 percent were from other States.

In Tennessee on U.S. 51, 30 percent were from other States.

In Mississippi on U.S. 51, the traveled route of Interstate 55, about 5 miles north of the Louisiana State line, 52 percent of the passenger cars were from other States.

In Louisiana on U.S. 51, the traveled route of Interstate 55, 20 miles south of the Mississippi State line, 26 percent of the passenger cars were from States other than Louisiana.

WASHINGTON, D.C., TO NEW ORLEANS

In Virginia on U.S. 460, 4 miles northeast of Roanoke, 18 percent of the passenger cars were from States other than Virginia.

In Tennessee on U.S. 11, Interstate 81, 49 percent were from other States.

In Alabama 1 mile east of the Mississippi State line, 71 percent were from other States.

In Mississippi on U.S. 11, Interstate 59, approximately 50 miles southwest of Meridian, 40 percent of the passenger cars were registered in States other than Mississippi.

These checkpoints were not selected specifically for this study, but were accumulated, I think, last year, but were made available because of the urgency of this testimony.

These statistics, although they simply describe a rough approximation along three typical routes in the South, show that the volume of interstate travel is considerable.

However, Negroes trying to make any one of these trips would have an extremely slender choice in attempting to find overnight accommodations in hotels and motels serving white travelers along the same routes. And I might say, Mr. Chairman, that here we are, by coincidence, backing up with statistics some of the testimony given by Mr. Roy Wilkins yesterday about his own personal travel across the United States.

To illustrate the magnitude of the travel problem we have drawn on the expert knowledge of Mrs. Marion Jackson, of Washington, a person who specializes in problems of Negro travel. In fact, she publishes a unique travel guide called "GO-Guide to Pleasant Motor-ing." I have a copy of it here.

The very existence of this guide is a dramatic testimony to the difficulties for which we are seeking a remedy. The guide contains

listings of hotels, motels, and other traveling facilities whose owners have stated in writing that their facilities are open to all desirable guests regardless of their race, creed, or color. The guide lists hotels and motels owned by white as well as Negro businessmen. Of the white-owned hotels—60 percent of those listed—there are practically none in the Southern States.

We asked the publisher of "GO" to consider the following problem: Assume a middle-class Negro family planned two trips by automobile through the South—(1) along routes U.S. 1 and 301 from Washington, D.C., to Miami, Fla.; (2) from Washington, D.C., via Columbia, S.C.; Atlanta, Ga.; Tuskegee and Mobile, Ala., to New Orleans, along routes U.S. 1, 301, 29, 31, and 90. Where along the way could such a middle-class Negro family expect to find reasonable sleeping accommodations?

The answer to this question is shown in table II, and the results are to me most disturbing. On the Miami trip, the average distance between accommodations is 141 miles, and on the New Orleans trip, it is 174 miles. Moreover, the places available are typically small, averaging only 15 units. So it is quite obvious that a traveling family might find that they had finally reached one of these accommodations but only to find no vacancy or that it was filled up.

(The table follows:)

TABLE II.—*Illustrative trip, Washington, D.C., to Miami, Fla., and Washington, D.C., to New Orleans, La., showing location of hotel-motel accommodations of "reasonable" quality readily available to Negroes*

	Route	Miles
Washington, D.C., to Miami, Fla.:		
Washington to Petersburg, Va.	U.S. 1 and 301	135
Petersburg to Raleigh, N.C.	U.S. 1	150
Raleigh, N.C., to Columbia, S.C.	U.S. 1	185
Columbia to Savannah, Ga.	U.S. 1	116
Savannah to Jesup	U.S. 301	65
Jesup to Jacksonville, Fla.	U.S. 17	100
Jacksonville to Ormond Beach	U.S. 1	142
Ormond Beach to Miami	U.S. 1	232
Total mileage, Washington to Miami		1,125
Average miles between locations		141
Washington, D.C., to New Orleans, La.:		
Washington, D.C., to Columbia, S.C. (including stops shown above)		470
Columbia to Atlanta, Ga.	U.S. 29	215
Atlanta to Tuskegee Institute, Ala.	U.S. 29	134
Tuskegee Institute to Mobile, Ala.	U.S. 29 and 31	250
Mobile to New Orleans, La.	U.S. 90	148
Total mileage, Washington to New Orleans		1,217
Average miles between locations		174

These are extremely crude estimates. But they do illustrate the tremendous problem faced by Negro travelers along the highways in the South. In fact, even if we cut in half the average of 141 miles on the Washington to Miami trip, or the 174 miles on the New Orleans drive, we would still have considerable distances over which Negroes would typically have to drive before they could expect to find reasonable accommodations open to them on the same basis as white travelers. If they get tired 40 miles out from the last available stop, they have a bitter choice to make in deciding whether to go back or push on. Frequently the choice they make will be one which

violates the National Safety Council's admonition that the nonprofessional driver should stop after 6 to 8 hours driving and get a night's sleep.

I won't dwell on table 2. It is an obvious table.

There is another anomalous aspect of the travel problems confronted by Negroes. Some well-to-do individuals, with enough money for a midwinter vacation, find it far more pleasurable to go abroad than to risk the insults and rejections which they are likely to face in many of the Florida hotels and luxury resorts. In fact, there is a steady stream of such travelers to the British West Indies.

DISTORTION OF NEGRO EXPENDITURE PATTERNS

The lack of equal access to public accommodations by Negroes not only limits their interstate travel, but distorts their consumption pattern and places an unnecessary burden on interstate commerce and, I might say, affects the gross national product. The business community generally has begun to recognize that the Negroes' rising disposable income represents a large and growing portion of the Nation's buying power. However, this is far less true in the area of public accommodations.

In the amusement, restaurant, hotel, and motel industries, one can see a pattern of Negro spending that appears to be related more to the availability or nonavailability of desegregated facilities than to any special kinds of taste or conspicuous consumption. I have asked my staff to prepare a tabulation of average Negro and white expenditures for "Admissions," which really covers theaters and recreational facilities; "Food eaten away from home," which covers restaurants and diners, et cetera, and "Automobile operations," that is the driving and use of a car rather than the buying of a car, a key to travel and therefore spending for hotels and motels. The tabulation is based on a study published several years ago by the Wharton School of the University of Pennsylvania.

These data—summarized in table III—show that Negroes in large northern cities spend more than southern Negroes of the same income class in all of these expenditure categories listed above, even though white families in northern cities spend less than similar families in southern cities.

In the same income group, northern Negroes spend more than northern whites for "Admissions," but southern Negroes spend less than southern whites and northern Negroes. Negroes in both the North and South spend less on "Food eaten away from home" than white people in the same income groups, but the difference is much greater in the South.

The table shows also that Negroes in both the North and South spend much less than whites of the same income class on "Automobile operations"—40 to 60 percent. This statistic certainly suggests that Negroes are doing considerably less traveling by automobile than white people in the same income group. Since Negroes spent close to the same amount, on the average, for the purchase of automobiles as did whites of the same income level, I believe the absence of suitable facilities along our important national highways must be the discouraging factor.

(The table follows:)

TABLE III.—Average family expenditure for admissions, food eaten away from home, and automobile operations, for 3 income classes, large northern and southern cities, by race, 1950

Income class and region	Admissions			Food eaten away from home			Automobile operation		
	Negro	White	Negroes percent of whites	Negro	White	Negroes percent of whites	Negro	White	Negroes percent of whites
\$2,000 to \$3,000:									
Large northern cities....	\$31	\$29	107	\$148	\$184	80	\$52	\$86	60
Large southern cities....	\$23	\$36	64	\$113	\$194	58	\$52	\$95	55
Northern expenditures as percent of southern.	135	81	-----	131	95	-----	100	91	-----
\$3,000 to \$4,000:									
Large northern cities....	\$45	\$37	122	\$188	\$170	81	\$87	\$158	42
Large southern cities....	\$37	\$39	95	\$117	\$180	65	\$56	\$170	51
Northern expenditures as percent of southern.	122	95	-----	118	94	-----	78	93	-----
\$4,000 to \$5,000:									
Large northern cities....	\$57	\$43	119	\$182	\$234	78	\$148	\$220	67
Large southern cities....	\$39	\$45	87	\$166	\$287	65	\$136	\$225	60
Northern expenditures as percent of southern.	146	107	-----	110	91	-----	109	98	-----

Source: "Study of Consumer Expenditure Income and Saving," tabulated by Bureau of Labor Statistics, U.S. Department of Labor, for Wharton School of Finance and Commerce, University of Pennsylvania, Philadelphia, Pa., 1956-57.

CONVENTIONS

The burden on interstate commerce of racial discrimination in public accommodations is clearly illustrated in the way many organizations select the cities in which they will hold conventions. A most striking example of a large organization steering away from a city because of discrimination in hotel and restaurant accommodations is provided in the case of the American Legion. The Legion had originally scheduled its 1963 convention—to be held in September—in New Orleans. However, they were informed that the availability of nonsegregated facilities could not be insured in New Orleans. The convention was then shifted to Miami, Fla., where they did receive an assurance of desegregated facilities. It is expected that attendance at the Legion convention will be as high as 50,000 persons, and that Miami will gain additional business—and this is a conservative estimate—amounting to between \$4.5 and \$5 million, and tourist dollars are new dollars brought into the community.

A similar story with respect to conventions is reported by Atlanta. Just a few weeks ago the Atlanta Convention Bureau stated that they had been overwhelmed with favorable response from the convention trade to the desegregation of some hotels in the city. They had already booked several meetings both of a regional and national nature and they felt they could not have had these bookings had desegregation not occurred in hotels. Among the conventions are a hospital group, a YMCA group, a national technical organization, three different labor organizations, one of the health agencies of the Federal Government, and a Presidential Commission.

Another striking example of the effects of discrimination—and of civil rights demonstrations protesting such discrimination—on convention trade is provided by the experience of Birmingham. Prior to

disturbances in that city in April and May of this year, inquiries received from various Southeastern States indicated a positive interest in Birmingham as a convention site. According to reports received by the Commerce Department field office in Birmingham, this interest waned substantially following the April and May demonstrations. Convention business has been lost in several instances where inquiries specified that accommodations for a mixed racial membership were necessary. Hotels being obliged to advise that under municipal law such accommodations were not available have been unable to realize this potential business. Recent examples have included the National Music Teachers Association and possibly the Southern Baptist Convention of Nashville, Tenn., who had been negotiating for convention facilities in 1965 for some 6,000 to 8,000 delegates.

EFFECTS ON ENTERTAINMENT

The effects of discrimination in public accommodations show up also in the entertainment field. Where segregation is practiced in theaters and auditoriums, the entire community, both white and Negro, is denied access to a variety of cultural and entertainment activities. The Metropolitan Opera Co. canceled its annual season in Birmingham because municipal authorities failed to desegregate theater facilities. Although they had formerly had very successful seasons in Birmingham, there are no plans for resumption in the immediate future.

Actors' Equity adopted a rule about a year ago, written into every contract, that performers need not perform in theaters where discrimination is practiced either against performers or patrons. White and Negro performers have been enforcing this rule, and refusing to appear. Equity has been using this clause on a limited basis for many years. Many of you probably recall that the National Theater here in Washington was closed for several years, and during some of this time there was no live, professional theater in Washington—not until the old burlesque theater was remodeled and opened to Negro as well as white patrons.

Entertainers in the American Guild of Variety Artists have also been refusing to book where either the stage or the audience is segregated. The guild's resolution is fairly recent, but many of the booking agencies have insisted upon this clause for a long time. Ray Charles, Harry Belafonte, and Sammy Davis are examples of prominent Negro entertainers who have been refusing to play to segregated audiences.

EFFECTS ON ENVIRONMENT OF BUSINESS

These are not the only adverse effects upon interstate commerce of racial discrimination in public accommodations. There is difficulty in recruiting professional personnel and skilled labor. Increasingly these people, who are in short supply, are unwilling to live and work in an environment in which racial discrimination in public accommodations is dominant. The pattern of plant locations is also distorted, because many firms turn away from such areas as plant sites. Moreover, these decisions frequently have an adverse impact on local efforts to redevelop communities by attracting new firms.

DIFFICULTIES IN RECRUITING PROFESSIONAL AND SKILLED MANPOWER

With respect to personnel, there is evidence that business organizations have been hampered in obtaining the services of professional persons and skilled workers who are likely to encounter discrimination based on race, creed, color, or national origin in restaurants, retail stores, and places of amusement in the area where their services are needed. Moreover, demonstrations and other forms of protest against this type of discrimination created a general atmosphere which frightens away trained local people and persuades others not to migrate to some places where their services may be in great demand.

The experiences of the Alabama Medical Center in Birmingham are typical. The center is the city's second biggest industry, ranking only behind Tennessee Coal & Iron, a subsidiary of United States Steel. The 15-block complex, which already represents a \$100 million investment, has plans for an additional \$30 million of construction in the next few years. Despite an outstanding reputation, Birmingham's adverse publicity over sit-in demonstrations and other forms of protests has posed problems for the center in attracting additional topflight scientists.

Again in Little Rock, although racial unrest was sparked by school desegregation, protests over segregated public accommodations further inflamed the environment. Under these conditions, recruitment of technical people became extremely difficult. According to the provost for medical affairs of the University of Arkansas—

The University medical center, being within the community of Little Rock, could not help but be affected by the disturbance. I think it would be only fair to say that because of this complicating social change, the medical center has had its faculty recruitment program brought to a virtual standstill. So many of the persons we approach and invite to join the faculty are diverted by the events that have been taking place in the community.

Several local witnesses at a civil rights hearing in New Orleans earlier this month testified that business and industry in the South was penalizing itself when it discriminated against Negroes by limiting their access to public accommodations, job opportunities, and inflicted other forms of racial restrictions. Because of these types of discrimination, the brighter and better educated Negroes migrate to the North and never return. One consequence of this migration is highlighted in the experiences of the Boeing Co. and Kaiser Aluminum. Both have national policies of equal opportunity in employment, and both testified they had found difficulty finding skilled Negro help in New Orleans.

EFFECTS ON PLANT LOCATION AND INVESTMENT

With respect to plant location, a typical example of how a city can lose new industries because of the turmoil over segregated public accommodations is also found in Birmingham. A company had planned to locate there to make products out of steel. Birmingham was negotiating for the plant when the riot over freedom riders erupted in 1961. The company decided Birmingham was out of the question and eventually built its plant in Tennessee, although it has to ship its steel in from Birmingham.

Again, with respect to the disturbances in Birmingham, a top official of one of the city's leading banks declared:

We've been hurt and hurt bad. I bet I've spent \$50 in telephone calls trying to convince a big Ohio company that it should locate a pilot plant in Alabama. But I'm afraid we've lost it to New England and lost it strictly because of the unrest down here. The pilot plant in its first stage was scheduled to cost about \$3 million and if it had worked out, the company was thinking in terms of a further investment of \$40 to \$50 million. Well, we asked for it, and now we're getting it.

In the 2 years before the crisis over schools and desegregation of public accommodations erupted into violence in Little Rock in September 1957, industrial investments totaled \$248 million in Arkansas. During the period, Little Rock alone gained 10 new plants, worth \$3.4 million, which added 1,072 jobs in this city. In the 2 years after the turbulence which brought Federal troops to the city, not a single company employing more than 15 workers moved into the Little Rock area. Industrial investments in the State as a whole dropped to \$190 million from \$248 million of the 2 years before desegregation.

ADVERSE EFFECTS ON GENERAL BUSINESS CONDITIONS

It is common knowledge that discrimination in public accommodations and demonstrations protesting such discrimination have had serious consequences for general business conditions in numerous cities in recent years. The following damaging examples are typical of the many which could be cited:

Retail sales in Birmingham were reported off 30 percent or more during the protest riots in the spring of 1963. That is just retail sales, gentlemen. One local businessman said several retailers had told him their books had shown a net loss for the first time in a generation. Another businessman of 35 years' experience said there were more stores for rent in Birmingham last fall than there had been during the depression. In April, one downtown block had 8 of its 20 stores empty, with "For Rent" signs in the windows.

One newspaper account said that downtown stores privately report that business in April was off 40 to 50 percent. They were hit first by a Negro boycott and then by a tense atmosphere that kept customers at home or in suburban shops. A story in the back pages of the Birmingham newspapers in May noted that a chainstore was closing its downtown branch in 2 weeks because of a lack of business.

The Federal Reserve Bank in Atlanta reported that in the 4-week period ended May 18, 1963, department store sales in Birmingham were down 15 percent below the same period in 1962. Since January 1, 1963, the city's department store sales dropped 5 percent from 1962. During the same 4½ months, department store sales were up 7 percent in Atlanta, up 10 percent in New Orleans and up 15 percent in Jacksonville, Fla.

In Atlanta, after several months of intermittent demonstrations in 1960-61, and a boycott sparked by student groups to remove racial barriers in lunch counters and department store restaurants, merchants agreed that the Negro boycott of the downtown area was almost 100 percent effective. Department store sales for a 1-week period in February 1961 were down 12 percent from the previous year, the

Federal Reserve bank reported. Receipts of some variety stores showed a far greater drop. During the demonstrations, early in 1961, one store executive said:

The most important thing that can be done is to convince the power structure that this situation can ruin the downtown area. The effect is not going to be confined to the retail stores. It will hit the banks, the office supply concerns, the insurance firms, the real estate interests, and all the rest.

In Savannah, Ga., a citizens' negotiating committee announced the end of lunch counter discrimination in downtown stores in July 1961. The action followed a 15-month boycott of the stores by Negroes, apparently because the Negro refusal to buy hurt merchants. The boycott cut retail sales as much as 50 percent in some places.

In the fall of 1962, businessmen in Charlotte, N.C., hit by drives for desegregation of public accommodations, estimated their business was cut by 20 to 40 percent.

Similar protests in Nashville, Tenn., produced a boycott which was maintained for approximately 7 weeks at what has been estimated at about 98 percent efficiency, a figure downtown merchants generally agreed on. Negroes in Nashville spend an estimated \$7 million annually downtown and their absence had varying results. In one department store, they represented 12 to 15 percent of the business; in another department store, 5 percent. The transit company found its revenues dwindling seriously; the two newspapers found advertising linage figures falling.

In addition to the boycott supporters, other shoppers stayed away from the downtown Nashville area. While conditions remained unsettled as a result of sit-ins, they could either stay home or shop in suburban areas. This, too, hurt business in the central city, for these out-of-towners represent 20 percent of the shopping totals.

Variety stores were hit particularly hard. With their lunch counters a sit-in target, even those who did venture downtown avoided the food counters, which sometimes account for as much as 50 percent of the gross profit. Even businesses not involved in the sit-ins and which had reputations of good service to Negroes found business dropping.

State Budget Director E. J. Boling, of Tennessee, said violence in Tennessee associated with desegregation of public accommodations threatened the State's credit ratings:

We go up to New York to talk to investment bankers . . . they start off talking about such things as these dynamitings. Sometimes that's all they talk about . . . they only want to know about all the acts of violence.

State Comptroller William Snodgrass concurred, and added that violence or the threat of violence can add a small fraction to interest rates—and this adds up to millions of dollars eventually.

OBJECTIONS TO THE BILL

Now let me deal with some of the objections I have heard to the bill before this committee. As I have already said, it seems to me it is clearly within the power of Congress to base this legislation on the commerce clause, as well as the 14th amendment. And I do not think that requiring the owners of public accommodations to serve the public without discrimination is an unwarranted encroachment on private

rights. The owners of these places are already subject to all kinds of controls, in order to advance the public safety, health, order, and morality. No one doubts the propriety of requiring them to build fire escapes, to keep their kitchens clean, and to prevent disorderly or immoral conduct on their premises. Moreover, as the Attorney General has pointed out, many Southern States compel the owners of public accommodations to spend their money to enforce segregation. Surely it is no more of an encroachment on private rights to compel them to end segregation than it is to compel them to perpetuate it.

I have also heard it said that using the commerce power does not meet the moral issue. I do not understand this point. Good sense dictates that the moral policy against discrimination be carried out by using all available constitutional authority. Other moral policies (against prostitution and gambling) have previously been translated into law based on the commerce clause.

I do not think that basing this legislation on the commerce clause detracts in any way from the dignity or importance of the constitutional rights involved. The dignity of those rights is best recognized by doing something about them. The justification for using the commerce clause is that it will work. It is constitutionally sound, and there is no adverse legal precedent which must be overcome, as in the 1883 case with regard to the 14th amendment. The argument that the 14th amendment approach alone must be used because it is a "higher" basis for the legislation seems to me something of a snare and delusion. It risks putting so-called principle ahead of performance. It risks ending up with nothing, and risks it needlessly.

I have also heard an objection to the commerce clause approach on the ground that it will not cover all businesses impartially, but only those which affect interstate commerce, whereas the 14th amendment is not so limited. If I understand the Mrs. Murphy argument correctly, I think there are many people who do not want the bill to apply to the smallest businesses. Where there is an appreciable or substantial effect upon interstate commerce this bill is an appropriate way to meet this point.

The important point about coverage of the act is that it be complete enough so that a substantial majority of the businesses in any area or region of the country are required to comply. It does not have to have 100-percent coverage, but it has to be comprehensive enough so that in all areas of the country, North and South, rural and urban, most public accommodations will be desegregated. If that is done, no hardship will be worked on individual businessmen, and the climate in this field of civil rights will quickly change.

In this connection, there have been numerous references to the possibility of defining coverage under the act in terms of dollar volume of sales. Some statistics prepared by my staff show that different types of business vary widely in the average volume of sales. Moreover, the same type of business may vary widely in average size from one area to another. I have with me several tables and charts—labeled appendix I—showing the distribution of sales by selected types of businesses in 10 major cities. I would like to offer these for the committee's information.

What these statistics show is essentially as follows:

From appendix I, table 1: A \$150,000 sales figure would afford adequate coverage only in the case of department stores in these 10 cities. At least 56 percent of the variety stores in these cities would be excluded; at least 76 percent of the gasoline stations would be excluded; 83 percent of the eating places; and 93 percent of the drinking places.

If the figure were reduced to \$100,000 annual sales volume, it would still be true in these cities that at least 49 percent of the variety stores would be excluded; 69 percent of the gasoline stations; 79 percent of the eating places; and 91 percent of the drinking places.

At \$50,000, 22 percent of the variety stores would still be excluded; 34 percent of the gasoline stations; 64 percent of the eating places; and 65 percent of the drinking places.

Finally, using a \$30,000 annual sales volume as a definition of coverage would mean that a minimum of 12 percent of the variety stores would be excluded; 14 percent of the gasoline stations; 34 percent of the drinking places; and 46 percent of the eating places. In other words, a \$30,000 cutoff would only cover about half of the eating places in these 10 cities.

Bear in mind that these are figures for major cities, with the population shown in appendix I, table 2. In the Southern States, more than half the population lives in rural areas as is shown in appendix I, table 3. And the figures cited are for those cities where coverage is greatest. In many cities the coverage is sharply less than in those referred to above.

Another measure of coverage limitations is that shown in appendix I, table 4, furnished by the American Restaurant Association. It shows that, on a countrywide basis, only 8 percent of the restaurants gross over \$100,000 annually, and only 22½ percent gross over \$50,000 annually. In other words, three-quarters of the restaurant establishments in the country would not be covered if a \$50,000 standard were applicable to restaurants.

In summary, the use of a specified sales volume may have some disadvantages. It may result in unevenness of coverage as between types of businesses and as between urban and rural areas. It might also lead to inequities among competitors, and to attempts to capitalize upon established exemptions by advertising their existence.

In this connection, Mr. Chairman, I dread the thought of replacing the odious signs marking white and colored restrooms, for example, and replacing them with "exempt" signs, indicating that this restaurant is exempt from the statute and others are not exempt.

This is a highly technical area as the above figures show. We have compiled them for the committee's general guidance in considering this legislation and we will of course be glad to assist further if the committee so desires.

In short, Mr. Chairman, this concludes my prepared statement. We strongly urge that you report favorably on S. 1732 and I will of course try to answer any questions that the committee members may have.

(Appendixes to Mr. Roosevelt's statement follows:)

STATISTICS AND CHARTS RELATING TO ANNUAL SALES OF SPECIFIED TYPES OF BUSINESSES IN 10 SELECTED CITIES

TABLE 1.—Number of establishments and percentage with sales of \$150,000 or more, \$100,000 or more, \$50,000 or more, and \$30,000 or more, and average sales, for 5 kinds of business in 10 illustrative standard metropolitan statistical areas, 1958

Standard metropolitan statistical areas and kind of business	Number of establishments ¹	Percentage of establishments ¹ with sales of—								Average sales, all establishments.
		\$150,000 or more	Less than \$150,000	\$100,000 or more	Less than \$100,000	\$50,000 or more	Less than \$50,000	\$30,000 or more	Less than \$30,000	
Atlanta, Ga.:										Thousands
Gasoline service stations.....	1,002	19	81	25	75	57	43	77	23	\$74
Eating places.....	894	12	88	14	86	35	65	49	51	63
Drinking places.....	104	5	95	7	93	38	62	66	34	45
Department stores.....	8	100	0	100	0	100	0	100	0	17,100
Variety stores.....	118	28	72	32	68	57	43	73	27	207
Birmingham, Ala.:										
Gasoline service stations.....	586	16	84	28	72	58	42	78	22	66
Eating places.....	622	7	93	9	91	23	77	40	60	52
Drinking places.....	118	1	99	1	99	17	83	47	53	34
Department stores.....	10	100	0	100	0	100	0	100	0	6,063
Variety stores.....	55	36	64	40	60	55	45	78	22	297
Dallas, Tex.:										
Gasoline service stations.....	1,128	19	81	25	75	59	41	77	23	76
Eating places.....	1,202	12	88	14	86	30	70	49	51	57
Drinking places.....	149	7	93	9	91	24	76	49	51	44
Department stores.....	18	100	0	100	0	100	0	100	0	7,630
Variety stores.....	137	32	68	39	61	60	40	71	29	136
Houston, Tex.:										
Gasoline service stations.....	1,392	16	84	24	76	56	44	75	25	70
Eating places.....	1,283	11	89	14	86	28	72	44	56	63
Drinking places.....	588	1	99	1	99	8	92	16	84	20
Department stores.....	17	100	0	100	0	100	0	100	0	7,788
Variety stores.....	91	33	67	38	62	59	41	71	29	248
Kansas City Mo. and Kans.:										
Gasoline service stations.....	951	20	80	28	72	57	43	77	23	78
Eating places.....	1,087	11	89	13	87	27	73	44	56	66
Drinking places.....	506	2	98	3	97	24	76	53	47	37
Department stores.....	20	100	0	100	0	100	0	100	0	5,300
Variety stores.....	104	40	60	46	54	57	43	65	35	180
Memphis, Tenn.:										
Gasoline service stations.....	550	20	80	27	73	60	40	80	20	75
Eating places.....	701	6	94	8	92	21	79	40	60	42
Drinking places.....	63	100	0	100	0	100	0	100	0	23
Department stores.....	10	100	0	100	0	100	0	100	0	6,860
Variety stores.....	67	30	70	36	64	46	54	54	46	120

See footnote at end of table.

TABLE 1.—Number of establishments and percentage with sales of \$150,000 or more, \$100,000 or more, \$50,000 or more, and \$30,000 or more, and average sales, for 5 kinds of business in 10 illustrative standard metropolitan statistical areas, 1958—Continued

Standard metropolitan statistical areas and kind of business	Number of establishments ¹	Percentage of establishments ¹ with sales of—								Average sales, all establishments
		\$150,000 or more	Less than \$150,000	\$100,000 or more	Less than \$100,000	\$50,000 or more	Less than \$50,000	\$30,000 or more	Less than \$30,000	
Miami, Fla.:										Thousands
Gasoline service stations.....	787	34	76	31	69	66	34	86	14	885
Eating places.....	1,176	17	83	21	79	36	64	50	50	84
Drinking places.....	508	6	94	8	92	25	75	42	58	42
Department stores.....	12	100		100		100		100		7,435
Variety stores.....	86	40	60	46	54	78	22	88	12	287
New Orleans, La.:										
Gasoline service stations.....	552	23	77	31	69	61	39	79	21	78
Eating places.....	920	12	88	15	85	30	70	46	54	63
Drinking places.....	975	3	97	3	97	13	87	32	68	32
Department stores.....	13	100		100		100		100		7,811
Variety stores.....	63	44	56	51	49	60	40	66	35	343
Richmond, Va.:										
Gasoline service stations.....	461	17	83	22	78	57	43	78	22	76
Eating places.....	607	7	93	8	92	28	72	54	46	48
Drinking places.....	46		100		100	9	91	84	16	30
Department stores.....	7	100		100		100		100		10,170
Variety stores.....	50	26	74	22	78	38	62	72	28	178
St. Louis, Mo., and Ill.:										
Gasoline service stations.....	1,845	31	70	28	72	30	70	81	19	84
Eating places.....	1,976	1	99	13	87	27	73	46	54	54
Drinking places.....	2,112	1	99	2	98	13	87	36	64	30
Department stores.....	25	100		100		100		100		10,510
Variety stores.....	190	40	60	47	53	66	34	74	26	215

¹ Establishments operated entire year.

Source: Based on data in 1958 Census of Business, vol. 1, "Retail Trade—Summary Statistics," U.S. Department of Commerce, Bureau of the Census.

TABLE 2.—*Population of selected Department of Commerce field office cities, 1960*

Atlanta, Ga.....	487,455	Memphis, Tenn.....	497,524
Birmingham, Ala.....	340,887	Miami, Fla.....	291,688
Dallas, Tex.....	679,684	New Orleans, La.....	627,525
Houston, Tex.....	988,219	Richmond, Va.....	219,858
Kansas City, Mo.....	475,539	St. Louis, Mo.....	750,026

Source: 1960 Census of Population, U.S. Department of Commerce, Bureau of the Census.

TABLE 3.—Number of places distributed by population size group and percentage of State's population in each group, for Southern States, 1960

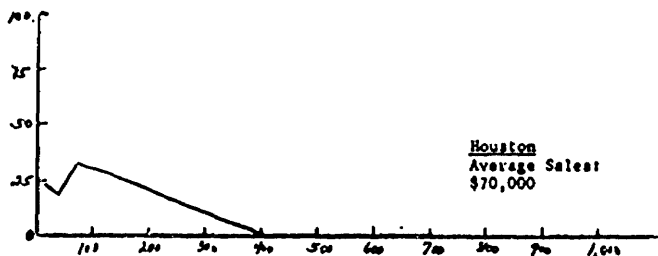
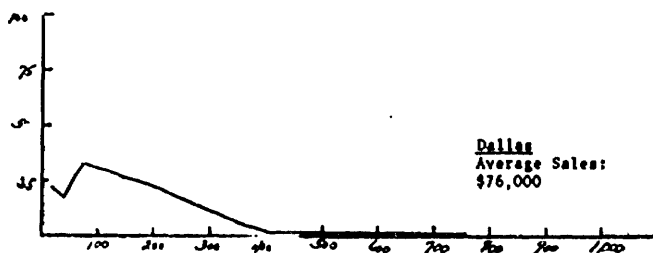
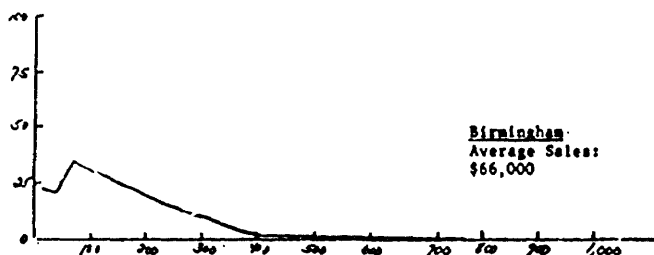
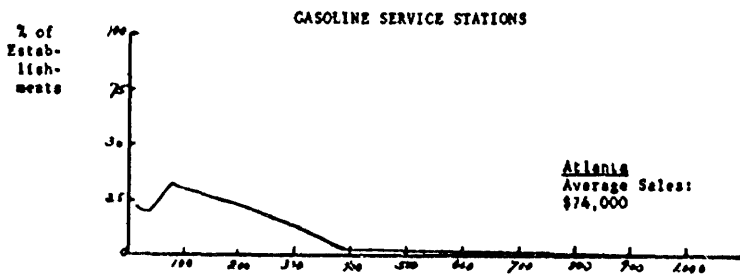
State	1,000,000 or more		100,000 to 1,000,000		50,000 to 100,000		25,000 to 50,000		10,000 to 25,000		2,500 to 10,000		Under 2,500 (including rural places)	
	Number of places	Percent of State population	Number of places	Percent of State population	Number of places	Percent of State population	Number of places	Percent of State population	Number of places	Percent of State population	Number of places	Percent of State population	Number of places	Percent of State population
Alabama.....			3	20.7	3	5.9	8	8.0	15	6.2	80	11.3	266	47.9
Arkansas.....			1	6.0	2	6.2	3	5.5	12	10.4	48	13.6	346	58.3
Delaware.....					1	21.5			1	2.6	8	8.6	61	67.4
Florida.....			4	19.1	6	8.4	13	9.2	30	9.0	126	12.4	257	42.0
Georgia.....			3	19.1	3	5.0	5	3.9	23	9.4	90	10.8	488	51.8
Kentucky.....			1	12.9	2	4.1	5	5.5	13	5.8	67	10.5	311	61.3
Louisiana.....			3	29.0	2	3.5	4	4.4	20	9.4	72	10.6	192	43.6
Maryland.....			1	30.3	4	8.4	6	6.3	21	10.9	34	5.5	129	38.6
Mississippi.....			1	6.6			7	11.8	10	7.8	52	11.4	220	62.4
North Carolina.....			3	9.5	4	6.5	8	6.3	21	7.3	89	9.0	429	61.6
Oklahoma.....			2	25.2	1	2.6	5	7.5	18	12.6	63	13.2	453	58.9
South Carolina.....					3	9.6	3	4.8	9	5.6	61	12.6	232	67.4
Tennessee.....			4	25.5			5	4.0	22	9.2	63	8.7	212	52.6
Texas.....			11	38.4	10	7.2	19	6.7	62	9.8	218	11.1	572	26.7
Virginia.....			5	23.1	4	8.4	3	2.8	17	6.3	47	5.6	187	53.8
West Virginia.....					3	12.0	4	6.9	8	7.3	41	10.0	203	63.9

Source: 1960 Census of Population, U.S. Department of Commerce, Bureau of the Census.

TABLE 4.—*Distribution of restaurants in the United States, by size and percentage of sales, 1958*

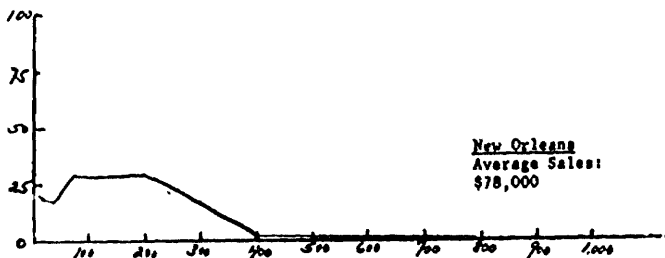
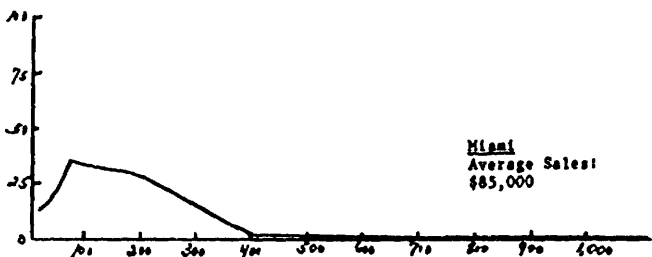
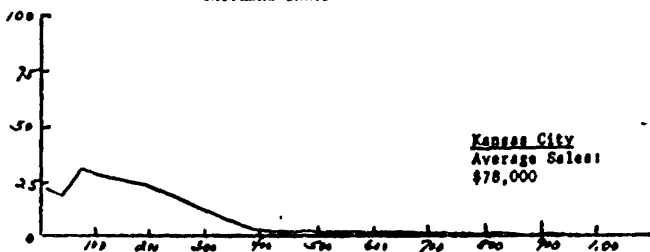
Size of business, gross volume of sales	Establishment basis			Enterprise basis		
	Number of restaurants	Percent of total number	Percent of total sales	Number of restaurants	Percent of total number	Percent of total sales
Over \$1,000,000.....	325	0.1	3.5	7,000	2.0	10.0
Over \$500,000.....	1,625	0.6	10.0	10,000	3.0	20.0
Over \$300,000.....	4,322	1.4	17.3	20,000	7.0	30.0
Over \$100,000.....	24,760	8.0	40.9	40,000	13.0	50.0
Over \$50,000.....	69,000	22.6	63.0	69,000	22.5	60.0
All establishments.....	308,000	100.0	100.0	308,000	100.0	100.0

Source: Prepared by the American Restaurant Association.



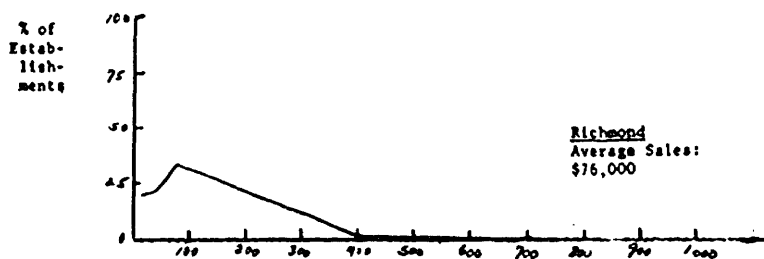
Sales (thousands of dollars)

GASOLINE SERVICE STATIONS

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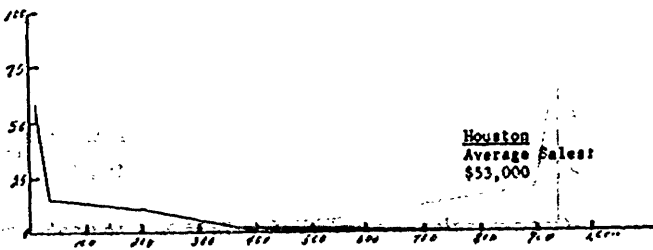
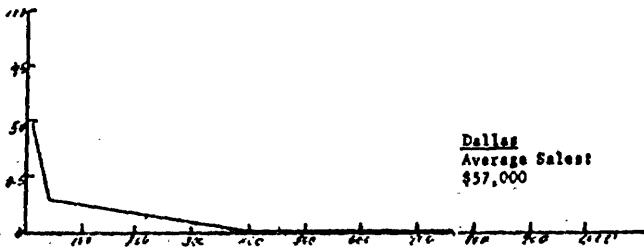
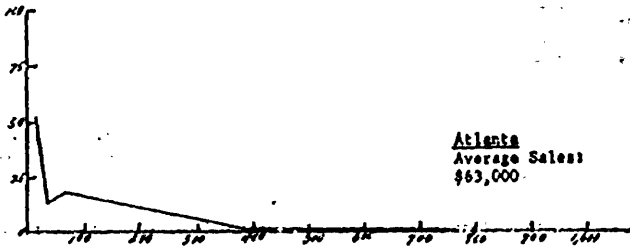
GASOLINE SERVICE STATIONS



Sales (thousands of dollars)

EATING PLACES

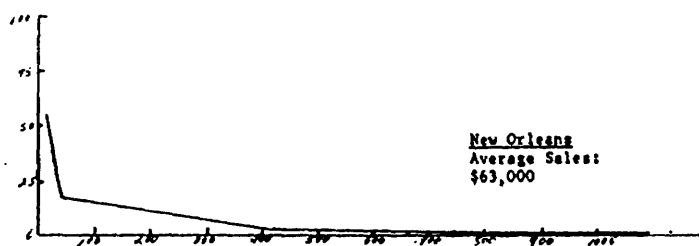
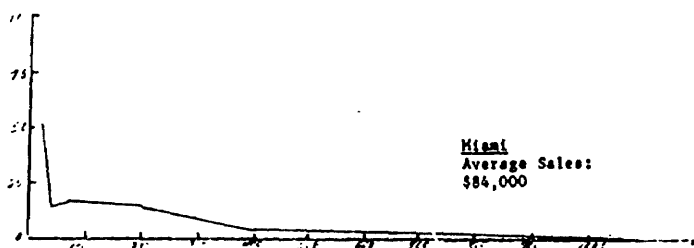
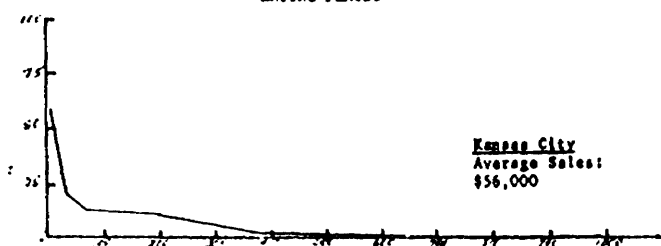
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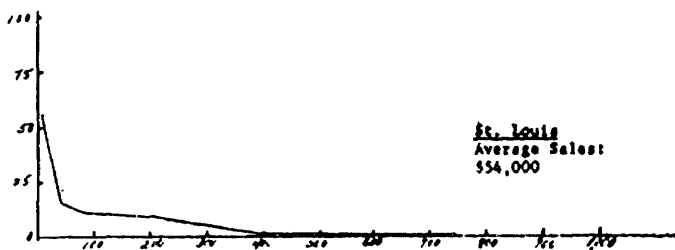
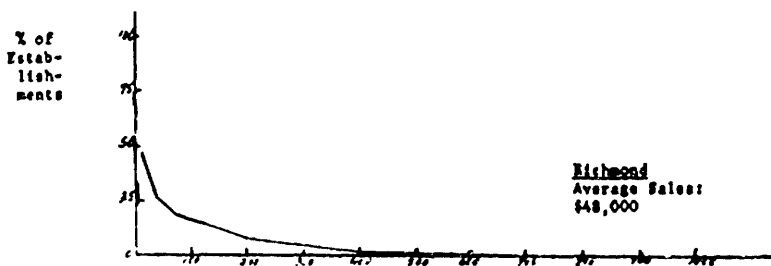
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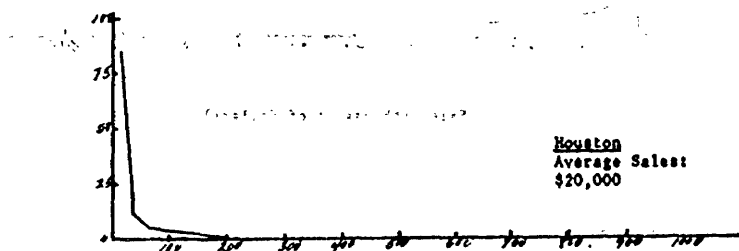
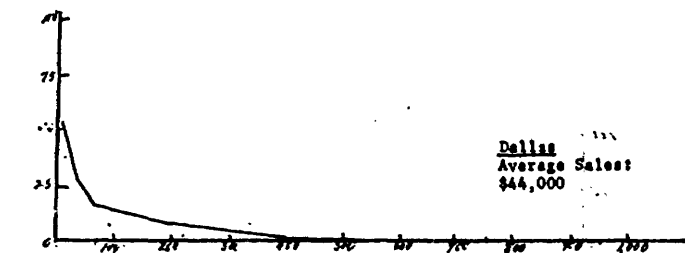
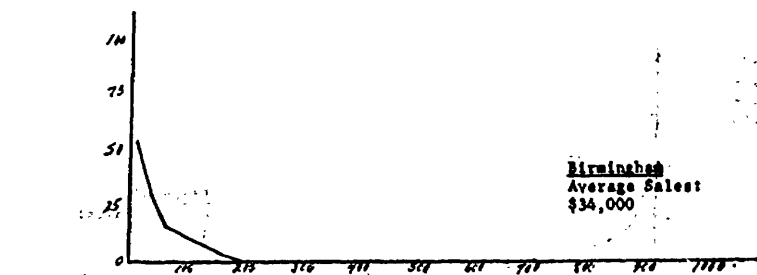
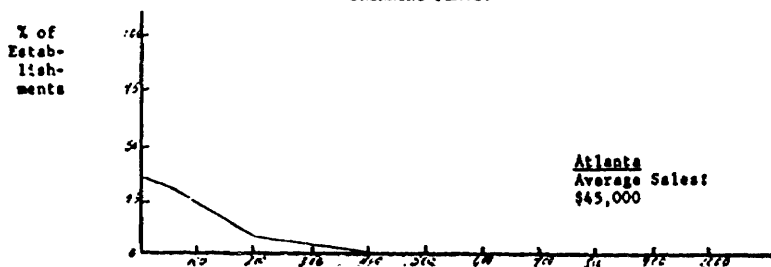
Sales (thousands of dollars)

EATING PLACES



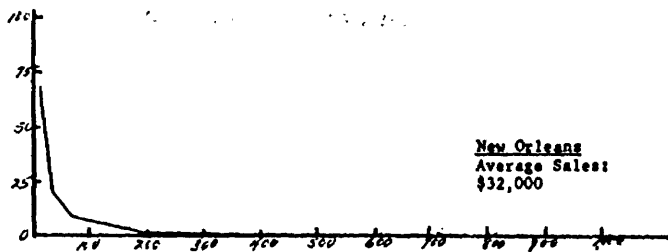
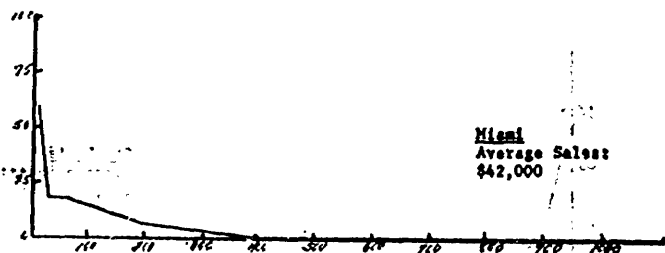
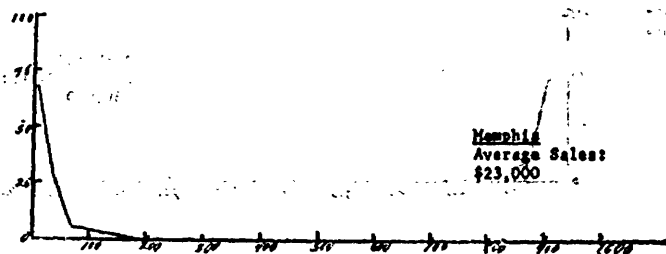
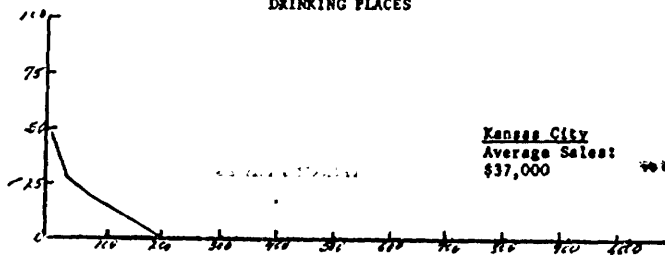
Sales (thousands of dollars)

DRINKING PLACES



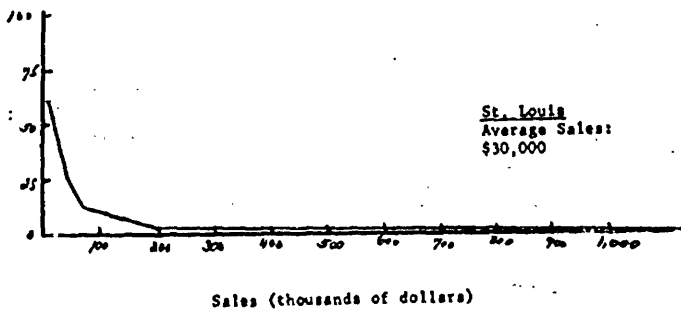
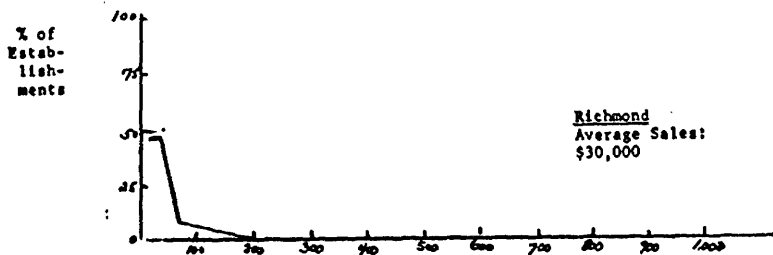
Sales (thousands of dollars)

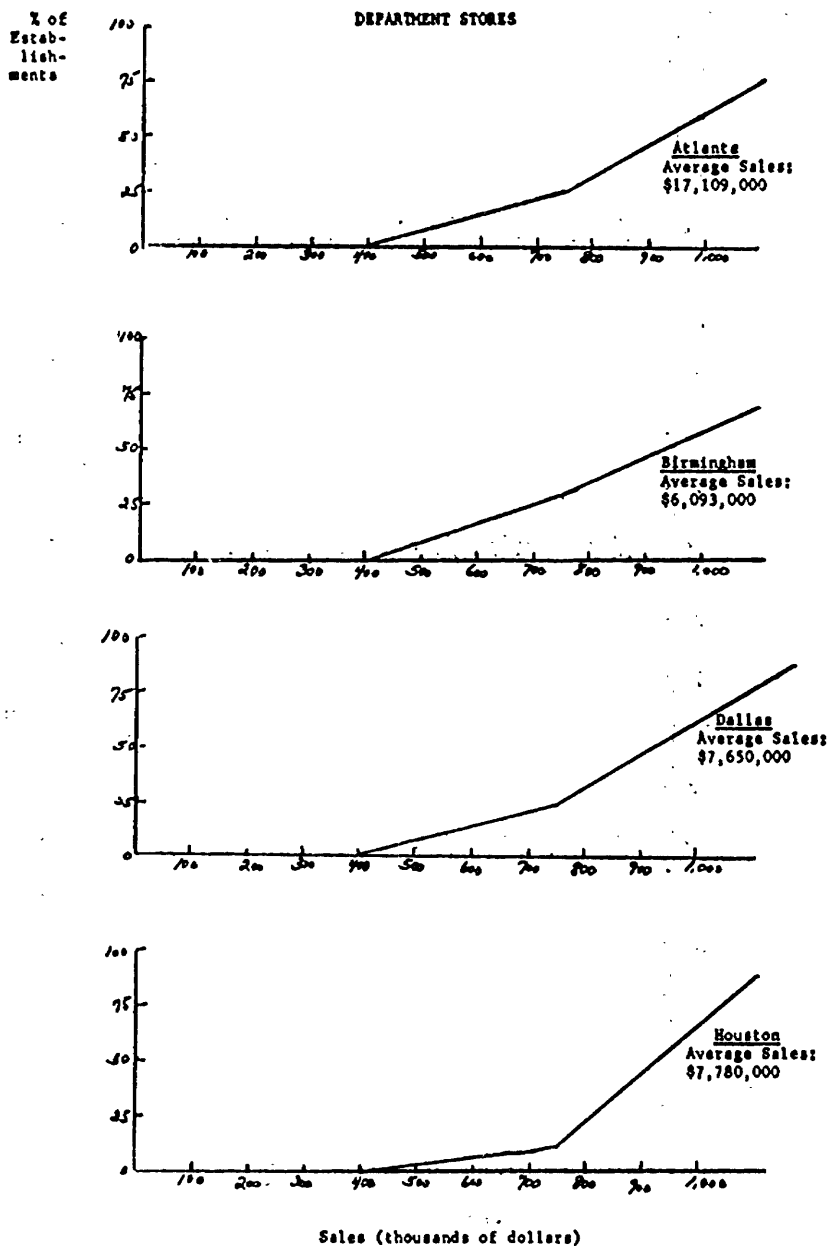
DRINKING PLACES

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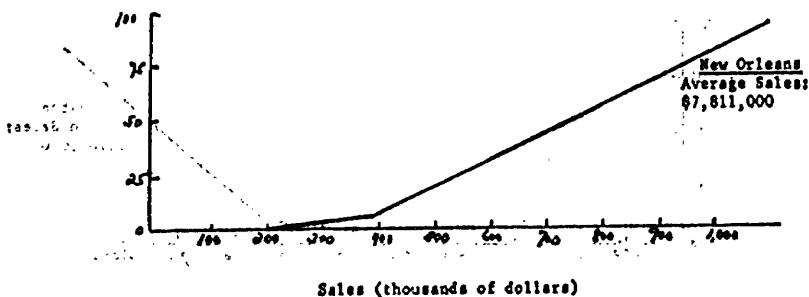
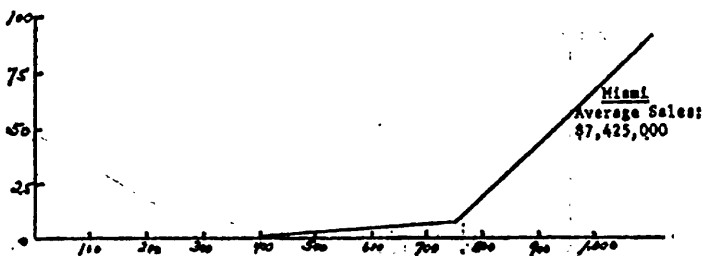
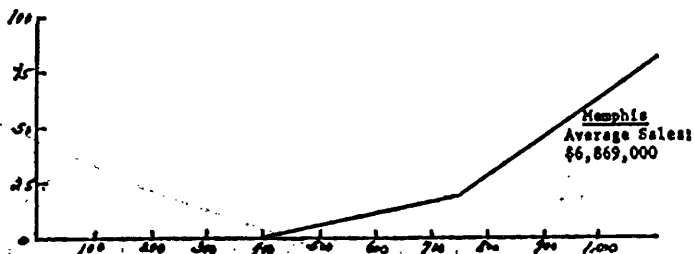
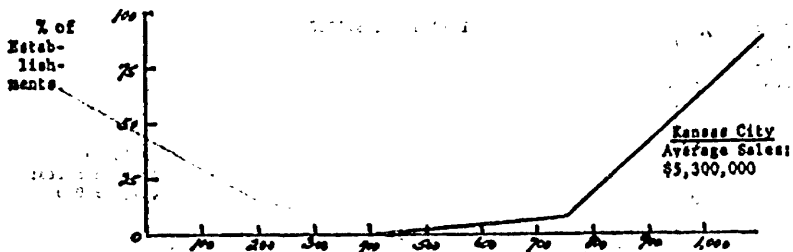
Sales (thousands of dollars)

DRINKING PLACES

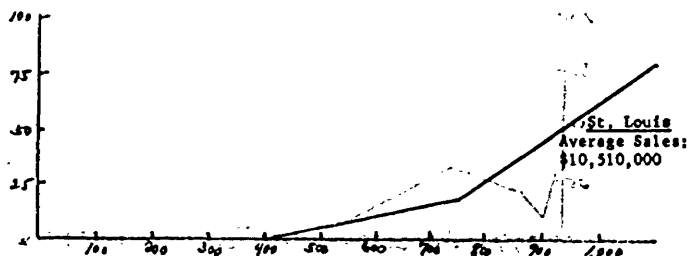
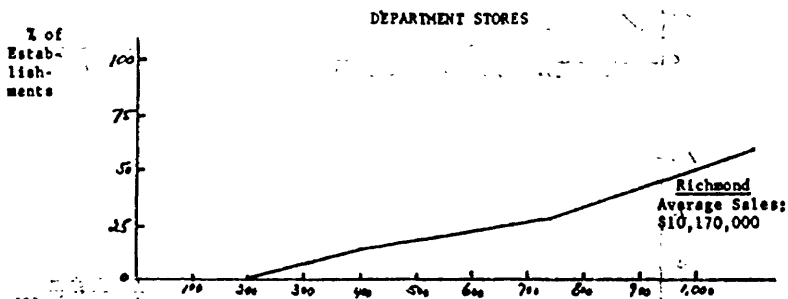




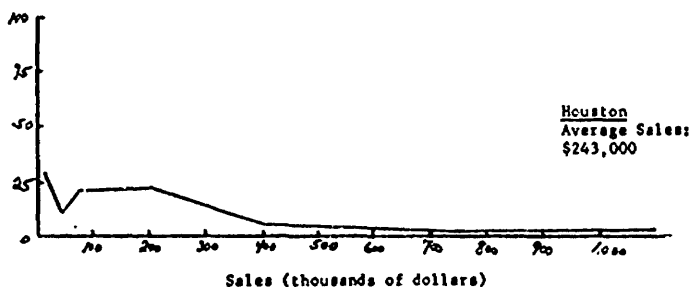
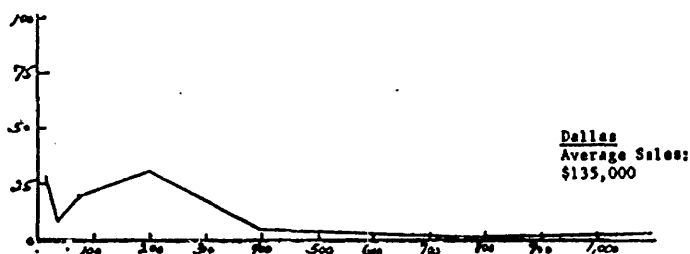
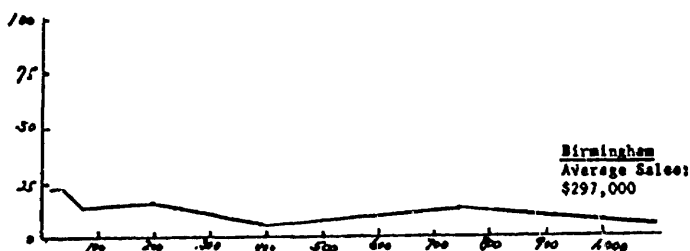
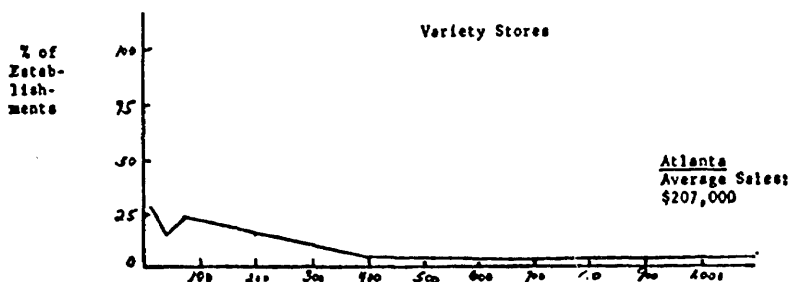
DEPARTMENT STORES



Sales (thousands of dollars)

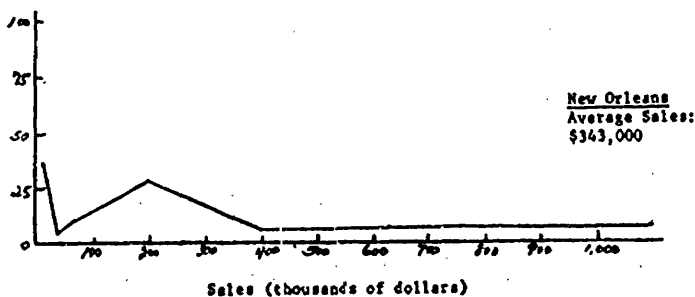
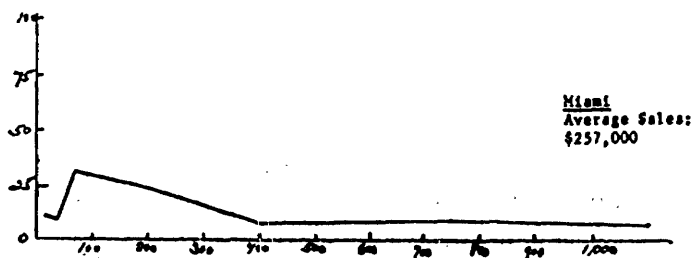
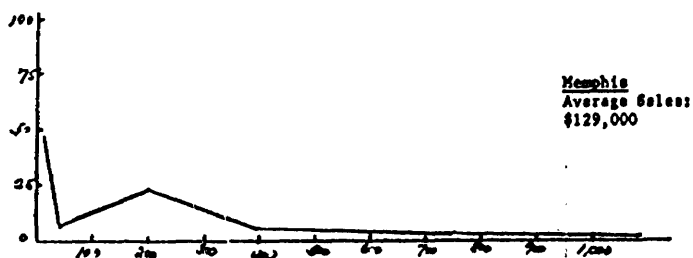
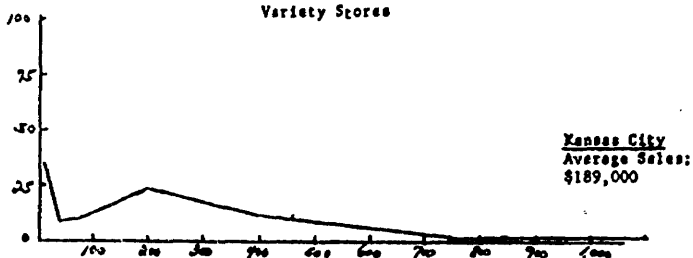


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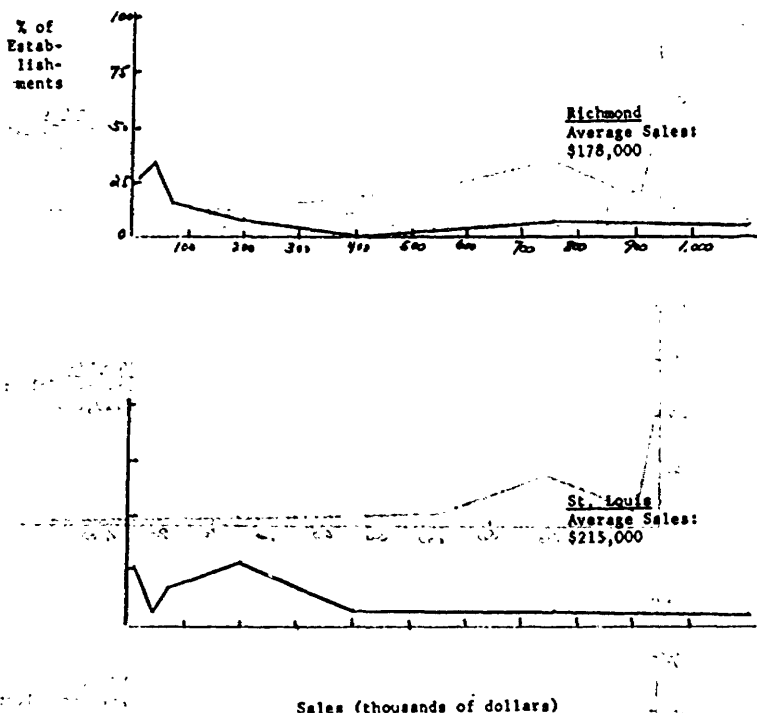


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Variety Stores



VARIETY STORES



APPENDIX II

FIELD OFFICE SURVEY OF DESEGREGATION OF PUBLIC ACCOMMODATIONS

In preparation of this testimony in support of the public accommodations bill, the Commerce Department obtained information on the extent to which businessmen in selected cities in Southern and border States have already taken or have underway specific steps to desegregate public accommodations. Field offices in 10 cities were asked to provide an appraisal of the current situation based on informal telephone inquiries (during week of July 8) among representative businessmen or trade association executives in the lines of business listed below. Inquiries went to the following field offices: Atlanta, Birmingham, Dallas, Houston, Kansas City, Mo., Memphis, Miami, New Orleans, Richmond, and St. Louis. The Department was particularly interested in information relating to the following accommodations:

1. Hotels and motels.
2. Restaurants.
3. Theaters (legitimate stage and motion pictures).
4. Department and variety stores (fitting rooms, restrooms, and lunch counters).
5. Amusements and recreations.
6. Rest rooms in service stations along U.S. highways.

In making inquiries the following questions were used as guidelines:

1. Have steps been taken to desegregate the facilities listed above? If yes, summarize the actions in each field.
2. When were the steps taken?

3. Who initiated the actions? (Specifically, what role if any, was played by businessmen or their associations?)

4. Where actions have been taken, what efforts, if any, did they have on the business involved? (Insofar as possible, care should be taken to isolate effects of the above actions from other factors affecting the business involved. It would be especially valuable to distinguish between the initial effects of desegregation and those which developed subsequently.)

5. With respect to hotels and motels, attention should be given to conventions and meetings. (Specifically, were any conventions or meetings canceled or attracted because the facilities were desegregated?)

6. Where none of the above accommodations have been desegregated, are plans underway to do so in the near future?

The information from the survey provides a comprehensive picture of the nature and scope of desegregation in a number of large and relatively progressive cities. A summary of each report follows:

ATLANTA, GA.

(1) *Hotels and motels*

1. Limited desegregation is now in effect at 18 of Atlanta's leading hotels, in that Negroes, if they are members of a convention which is meeting at one of these hotels, may sleep and eat there. This is known as the Dallas plan. All Negro conventions would not be admitted, however, or those with a large number of Negro delegates.

2. Action was taken on June 20, 1963.

3. Action was initiated by members of the Atlanta Hotel & Motel Association acting as individuals. It was not an action of the association.

4. It is reported that some hotels have had a few credit cards returned, and they have had some cancellations on individual reservations. Also, "a good bit of nasty correspondence" has been received.

Atlanta is in the midst of its slowest hotel season, so it would be difficult to tell at this time whether limited desegregation has had much effect on business.

5. The Atlanta Convention Bureau advises that they have been overwhelmed with favorable response from the convention trade. They have already booked several meetings, both of a regional and national nature, that they would not have been able to get before. Among these are a hospital group, a YMOA group, a national technical organization, three different labor organizations, one of the health agencies, and a Presidential Commission. The bureau knows of no conventions that have been canceled because of the desegregation of facilities.

(2) *Restaurants*

1. Twenty-three leading operators of approximately fifty Atlanta eating establishments have desegregated.

2. Action was taken on June 25, 1963.

3. Twenty-three individual businessmen, who are the operators of some fifty restaurants in Atlanta, initiated the action. The Atlanta Restaurant Association was not involved.

4. The Atlanta Restaurant Association has had no report of anyone being seriously affected insofar as business is concerned at this time.

(3) *Theaters (legitimate stage and motion pictures)*

1. Approximately one-third of the motion picture theaters in Atlanta, including all those in the downtown area, are now desegregated. They represent 70 percent of the business done in all such theaters here.

Following the recent conversion of the Tower Theater to Cinerama, Atlanta is without a legitimate stage theater.

2. In May 1962 this action took place as regards movie theaters.

3. Action followed a conference of theater owners with Mayor Ivan Allen, Jr.

4. The Georgia Theater Owners Association stated that they could not evaluate the effect desegregation has had on theater business, as the question is too involved and is dependent upon local situations and conditions.

5. Additional theaters are expected to become desegregated in the near future.

(4) *Department and variety stores (filing rooms, restrooms, and lunch counters)*

1. This followed a series of meetings among the then Mayor William B. Hartfield, representatives of the Negro community, and department and variety store operators.

2. In October 1961 lunch counters and restrooms in department and variety stores were desegregated. We understand that fitting rooms have customarily been desegregated here.

3. Store operators voluntarily and gradually took this action.

4. Business has improved.

(5) Amusements and recreations

1. All city of Atlanta recreational facilities have been desegregated. However, recreational facilities of a public nature outside the city remain segregated, as do those of the State of Georgia.

2. City golf courses were desegregated in December 1955, city parks in the summer of 1962, city swimming pools in June 1963.

3. Action was taken in all three cases as the result of a court order.

4. Since desegregation of the city's pools last month, attendance has dropped sharply. Twenty-four hour city police guards are maintained at the pools in the city parks.

(6) Restrooms in service stations along U.S. Highways

1. Service stations, except in very isolated instances, are individually owned (leased) and operated, and desegregation is dependent upon the policy of the local manager and operator. No policy of desegregation has been issued by any of the lessors with whom we checked—Shell, Standard, and Sinclair Oil Co.'s. Some owners have a restroom designated for colored persons, while others permit colored persons to use restrooms for white persons.

2. As to when steps were taken to desegregate, this cannot be determined readily, since the individual station operator decides when and if a policy of desegregation is to be followed.

3. The individual operator decides whether to desegregate the restrooms in his service station.

4. Effects of any desegregation in such facilities are unknown.

BIRMINGHAM, ALA.

I. Hotels and motels

A. *Hotels*.—Birmingham Hotel Association has taken no official action to desegregate hotel facilities. The matter has not yet been discussed by the association, although informant states he has suggested that the matter be placed on the agenda for the next meeting. Reportedly this will be done and an effort will be made to devise a plan acceptable to the membership to desegregate hotel facilities. The Birmingham Motel Association is described as being "very adamant against" any consideration of the matter, but such is not the case with the hotel association, which recognizes the need to develop a plan to desegregate hotel facilities.

A second source confirmed information reported above and agreed that some definite action must be taken as there has been a definite loss of business believed to be directly attributable to recent civil rights demonstrations. Specific examples involving loss of convention business have been cited:

(1) Prior to recent disturbances, inquiries received from various Southeastern States indicated a positive interest in Birmingham as a convention site. This interest waned substantially following the April-May demonstrations.

(2) Convention business has been lost in several instances where inquiries specified that accommodations for a mixed racial membership were necessary. Hotels, being obliged to advise that under municipal law such accommodations were not available, have been unable to realize this potential business.

Recent examples have included the National Music Teachers' Association and possibly the Southern Baptist Convention, Nashville, Tenn., who had been negotiating for convention facilities in 1965 for some 6,000 to 8,000 delegates. In-

formant states that negotiations were discontinued with the assurance that such suspension did not involve "racial considerations" but rather was attributable to "internal organizational problems."

Both sources report some decline in the general level of hotel business during the past 3 to 4 months, which is partially attributed to general racial tensions in the community.

A third source confirmed reports of sources 1 and 2 with respect to absence of action to desegregate hotels and motels, with the exception of one motel, known as the A. G. Gaston Motel, 1510 Fifth Avenue, North, owned and operated by Mr. A. G. Gaston, a Negro, which is described as desegregated.

B. Motels.—A prominent operator reported that there are no plans or intentions to integrate motel facilities; on the contrary, an attempt to do so would be vigorously resisted. As a result of racial demonstrations during April-May, there was a sharp decline in motel business, which is attributed to the belief that normal visitations by commercial representatives to the city were postponed during this period. Following the aftermath of the tensions created during the above period, business has resumed its normal pattern.

This source also reported that convention business for the city had definitely been lost due to lack of integrated facilities, but that it was the general consensus of opinion among the business community that convention business requiring integrated accommodations was not desirable and its loss was without regret.

It was also pointed out by this source that integrated accommodations in hotels and motels within the city could not be provided under existing municipal laws.

II. Restaurants

We were advised that no restaurants have been desegregated and no plans to do so are presently under consideration. It was stated that the facilities of Dobb's House, a restaurant and bar under a concession agreement with the municipal airport authority, at the Birmingham Municipal Airport, have been desegregated. This action is based upon a court order desegregating airport facilities.

There are no plans before the Birmingham Restaurant Association regarding the desegregation of restaurants, and it is not contemplated that the association will take any position in the matter. Ultimately, the decision to desegregate or remain segregated will be made by each respective restaurant proprietor.

III. Theaters

No efforts have been undertaken to desegregate theater facilities, legitimate stage or cinema.

By court order in 1961, the municipal auditorium was ordered desegregated, but the order was largely ignored until the incumbency of the present municipal government administration, which was confirmed as the legally elected government by decision of the Alabama State Supreme Court on May 23, 1963.

Prior to court order desegregating this facility, a balcony was usually reserved for Negroes during certain types of shows, but for many years the auditorium has been available to and used by Negroes for all-Negro shows. At the present time, the facility is completely desegregated. There have been no shows there recently; however, there was an all-Negro Baptist convention held in June 1963 attended by 7,000 Negroes. There were no incidences or difficulties.

The Metropolitan Opera Co. formerly had a very successful season in Birmingham each year, but failure of the municipal authorities to desegregate theater facilities resulted in cancellation by the Metropolitan of its annual season in the community. There are no plans for resumption in the immediate future.

IV. Department and variety stores

On May 10, 1963, a formal agreement was entered into with the leaders of the Negro community and the Senior Citizens Committee, composed of prominent business leaders, which provided specific time allotments within which certain

actions would be taken by senior business organizations, which includes department and variety stores. Provisions of the agreement are:

Proposed action	Deadline	Action taken
1. Desegregation of fitting rooms.....	May 13, 1963.	Accomplished.
2. Removal of "For White Only" signs over drinking fountains and rest room facilities in department and variety stores.	June 10, 1963.	Do.
3. Desegregation of lunch rooms, lunch counters in department and variety stores.	Within 60 days after newly elected municipal government confirmed in office by Alabama Supreme Court decision. (Affirmative decision rendered May 23, 1963).	Pending. Due to be accomplished July 23, 1963.
4. General upgrading and opening of employment to Negroes not only in department and variety stores but on broad-scale industrywide basis.	Within a "reasonable" period of time.	One sales clerk appointed in one downtown department store which was agreed would constitute an immediate overt symbol of good faith. Other aspects of this proposal said to be in various stages of accomplishment.
5. Creation of biracial committee on the problems of employment. Committee to be composed of Negro leaders and members of Senior Citizens Committee.	Within a "reasonable" period of time.	Out of this agreement, upon being confirmed in office, new municipal government agreed to appoint a formal biracial committee, probably to be identified as "Community Affairs Committee," to be composed equally of white and Negro citizens to be appointed by the mayor. Announcements of appointments and creation of such a committee is expected by the end of July 1963.

V. Amusements and recreations

As a result of a 1961 court order to desegregate public parks and municipal golf courses, the then municipal government closed these facilities and they have remained closed until ordered reopened on an integrated basis on June 27, 1963, by the newly elected municipal administration. As a consequence of this order, aside from the public parks and Birmingham Zoo, three municipal golf courses have been integrated without incident.

On July 9, 1963, the Birmingham Post-Herald reported that the city netted more than \$7,800 profit from a gross income of \$8,816 during the first 11 days of operation of the three golf courses.

Parks Superintendent Frank Wagner said "there has been no trouble at any of the courses so far, and all three have operated smoothly under the circumstances."

We were advised that Legion Field has been integrated under court order since 1901 and that a few Negroes have attended sporting events held there during the past 2 years. No difficulties have been reported. This same source stated no swimming pools were integrated although there is a municipal swimming pool exclusively for the use of Negro citizens.

A 40-percent decline of tourist travel both to and from the city during the period of April-May 1963 is reported by Mr. Bancroft Timmons, secretary-manager, Alabama Motorists Association. Resumption of recreational travel has resulted in recovery of about 25 percent of the decline. Many travelers normally visiting the northeastern part of the United States as well as travelers from that and other areas of the country to the south canceled their travel plans for fear of discourteous treatment in the respective areas. Mr. Timmon's views were carried in a front page story in the June 20, 1963, issue of the Wall Street Journal.

VI. Service stations

Restroom facilities in service stations along U.S. highways are not integrated, nor are such plans under consideration.

It is reported that many of the newer service stations have incorporated into their building plans a "third" restroom for use by Negroes.

DALLAS, TEX.

Leading citizens of Dallas were determined their city should not become another Little Rock or New Orleans. By the time they faced desegregation of their schools in 1961, white and Negro civic leaders had been working for 16 months to smooth the way. Confronted with the Little Rock picture early in 1960, the Dallas Citizens Council, an unofficial body of the chief executives of 250 of the largest businesses, appointed a 7-man committee to collaborate with a counterpart committee of Negroes. The white committee was headed by C. A. Tatum, president of the Dallas Power & Light Co. The Negro committee represented 125 Negro organizations and was under the chairmanship of C. Maceo Smith, regional intergroup relations director for the Federal Housing Administration.

Both groups hammered at the theme of law and order and disseminated their message—that a good citizen obeys the law—through civic clubs, religious bodies, labor unions, medical, and bar associations. Personal contacts, printed and filmed material were used.

By the time the first school desegregation went into effect, Dallas already had opened 40 restaurants to Negroes, manuals had been distributed to store clerks to aid them in handling complaints about desegregation, the State fairgrounds amusement park had been opened to all, Negro policemen had been shifted from plain clothes to uniform, various forms of transportation segregation were ended, employers had been asked to reappraise their classification policies and this had resulted in some upgrading of Negroes. The result of all the preparation: Dallas, which had been the largest city in the Nation maintaining segregation, admitted its first Negroes to white schools in the fall of 1961 without incident.

(1) Hotels and motels

Dallas hotels and motels have progressively been desegregating since early 1961, and at present all major public facilities are desegregated. This action was initiated by the above committee beginning in 1960.

The National Association of Real Estate Brokers (colored, 1,000 delegates) met in Dallas and was housed by the hotels. Also, the American Teachers Association (colored) held their convention in Dallas during 1962. On September 3, 1963, 7,000 Negroes are scheduled to attend the National Baptist Convention of America in Dallas, and reservations for accommodations are already being accepted for this group.

Dallas hotels and motels have reported that very little, if any, unfavorable actions have affected their business because of desegregation. A few isolated incidents of complaints of Negroes using hotel-motel swimming pools have been reported. As stated above, several Negro conventions have already been held in Dallas, and the Dallas Convention Bureau is soliciting other meetings. A paragraph at the bottom of their stationery states: "P.S.—Our facilities are integrated, and please be assured that all your delegates would be received at our hotels and restaurants without discrimination."

(2) Restaurants

Beginning in 1960, seven restaurants were persuaded by the committee to begin desegregation. Others were desegregated during 1961 and 1962. During the last part of May 1963, Dallas Restaurant Association voted almost unanimously to desegregate their facilities (75 of 76 members voted yes).

Desegregation of restaurants has been so slow and quiet that no incidents of any importance have taken place, and since May 1963, there has been no publicity given in the newspapers of the association's actions.

(3) Theaters

Dallas theaters have been slow to desegregate and action to allow Negroes to be seated in major theaters was not taken until the middle of June 1963. Theaters are now allowing Negroes to purchase tickets at the box office, but no publicity has been given to this action. No incidents have happened that we know of, but it is too early for the effects of desegregation to be distinguished.

(4) Department and variety stores

In 1960, variety stores such as Kress, Kresge, Woolworth, Moses, H. L. Green, Walgreen Drugs, and departments stores, Neiman-Marcus, Sanger-Harris, Titcher-Gottlinger, and Sears, Roebuck agreed to desegregate their facilities. Subsequently, all major department and variety stores have served minority groups in their fitting rooms, lunch counters and restrooms. The initial desegregation action was done so quietly that subsequent developments have caused no appreciable incidents.

(5) Amusement and recreation

Dallas recreational facilities have been desegregated officially since 1907. Minority groups began playing golf on Dallas municipal golf courses approximately 3 years ago, and during May 1963, Negroes quietly began swimming in all public pools in Dallas.

The effect of minority groups using public pools has caused a decrease in the number of white patrons at the pools. However, we are also informed that lately quite a number of white patrons are now using pools formerly reserved for Negroes.

Six Flags Over Texas (similar to Disneyland) and Fair Park Amusement Center have been desegregated for years.

(6) Restrooms in service stations along U.S. highways

Major oil companies state that there are no segregation rules in their service stations. However, signs stating "white" and "colored" are still in place in some stations. Usually the service station operator controls the situation.

Summary

This association of businessmen has worked quietly and very successfully to desegregate public facilities in Dallas. They have kept no minutes of their meetings, and allowed no publicity as to whom the committee is and desire no recognition of their actions. Recently a new committee has been formed to continue this work. This committee will continue handling this problem for the city of Dallas, and I am told that their next goal is developing vocational training for minority groups within this area.

The Dallas plan has been so successful that other cities (such as Atlanta, etc.) are investigating it. We can discover at present very little race tension in Dallas, except possibly the employment situation.

HOUSTON, TEX.**(1) Hotels and motels**

With possibly a few exceptions, all of the hotels and motels, including eat-facilities, have been desegregated.

(2) Restaurants

An estimated 98 percent of restaurants have been desegregated within the past few months.

(3) Theaters

Theaters were desegregated in the third week of June 1963.

(4) Department and variety stores (fitting rooms, rest rooms, and lunch counters)

Department and variety stores (fitting rooms, rest rooms, and lunch counters) have been desegregated for several months. There may be a few exceptions.

(5) Amusement and recreation

Amusement and recreation facilities are all desegregated according to best information available to our office.

(6) Service stations

To the best of our knowledge, restrooms in service stations along highways have been desegregated for quite some time, particularly all new ones.

In most instances, the actions regarding desegregation were taken by individual businessmen, or, as the result of steps taken by their associations.

As far as we can determine, the actions taken have produced no noticeable effects as of this date.

From most reliable information, no conventions or meetings have been canceled, or attracted to Houston, since desegregation of hotels and motels.

KANSAS CITY, MO.

(1) Hotels and motels

By city ordinance, no hotel, motel, restaurant or other public eating place may refuse service because of race, creed, or color in Kansas City, Mo. We are glad to say all of our public facilities of this nature have been open to all members of the public for several years.

One of our informants told us his office received a call today from a representative of one of the large national labor unions who were planning to hold their coming convention in Kansas City because there are adequate hotel and service accommodations here that are open to all regardless of race, creed, or color.

(2) Theaters and department stores

Theaters are also open to Negroes as well as all facilities of department and variety stores.

(3) Service stations

Restrooms in service stations on U.S. highways are also noted segregated, and have not been segregated for a number of years.

(4) Amusements and recreations

Fairlyland Park, a local private amusement park does presently bar members of the Negro race. The same is true of some of the bowling alleys. We understand there is presently under consideration a revision of the city ordinance prohibiting segregation in places of amusement such as these.

MEMPHIS, TENN.

(1) Hotels and motels

All hotels and motels in Memphis are now integrated with the exception of one hotel which is privately owned and predominantly occupied by monthly and annual tenants.

(2) Restaurants

Thirty-eight leading downtown restaurants are integrated.

(3) Theaters (legitimate stage and motion pictures)

All theaters in the City of Memphis are integrated.

(4) Department and variety stores (fitting rooms, rest rooms, and lunch counters)

All department and variety stores are integrated with the exception of one privately owned department store. Integrated accommodations include fitting rooms, rest rooms, and lunch counters.

(5) Amusements and recreations

All city owned or municipal facilities are integrated. This includes the zoo, golf courses, amusement parks, schools, and transportation.

(6) Restrooms in service stations along U.S. highways

From the best information available, some restrooms in service stations along U.S. highways are integrated and some are segregated.

MIAMI, FLA.

Integration in Miami has moved slowly, but steadily forward with few organized demonstrations in evidence. An attitude of acceptance to Negro demands for equal rights seems prevalent and the city and metropolitan governments have effected many regulatory changes to accord them these privileges.

Racially, Miami differs markedly from the Deep South. About 15 percent of the population is Negro. This percentage is slowly increasing, but at a rate slower than the white segment because of the large number of retirees who continually add to our population.

Excepting the younger generation, there are few native Miamians and by far the greatest percentage of our citizens are from Northern States. This undoubtedly provided an atmosphere of acceptance for the desegregation of schools which was accomplished in September 1959. The board of directors of the University of Miami, a private school, passed a desegregation resolution in May 1961 and, although no records are kept to distinguish white from nonwhite students, there are approximately 50 Negroes in the undergraduate school and about the same number in the graduate school. There seems to have been little trouble among Miami's student groups in accepting integration.

(1) Hotels and motels

On account of the tremendous number of hotels and motels in the Miami area, it is difficult to provide other than an estimate of the desegregation of these accommodations. However, many of the hotels have opened their doors to Negro guests. During the Orange Blossom Classic, the outstanding Negro football festival held each fall in Miami, it is reported that one of Miami Beach's hotels had 150 to 200 registered Negro couples.

Segregation has proved no problem for conventions in Metropolitan Miami. Many assemblies attract nonwhites and have been held with no refusal on the part of the community to accept such delegates. The final report of the October 1958 General Convention of the Episcopal Churches of the United States of America held in Miami Beach stated: "May it be noted for the record that all races, creeds, and color were given equal hospitality in Miami Beach. Preconvention concerns were completely dissipated as the convention progressed. The skeptical were silent. Miami Beach, in the South, is due recognition."

At present writing, one of Miami Beach's better hotels is host to a longshoremen's convention which has many Negro delegates.

(2) Restaurants

Many of our countless restaurants will also serve Negroes. This is also true of lunch counters in department, variety, and drug stores. There was some resistance some years ago but integration is commonly accepted today. For economic reasons, it is believed Negroes are seldom seen in higher priced restaurants.

(3) Theaters

Theaters have integrated as have also all public amusement and recreation centers.

(4) Department stores

Department store fitting rooms and restrooms are also frequented by Negroes, and all large department stores in Miami have added Negro sales personnel. As expressed by one of our prominent department store executives, "We are moving forward just as fast as our customers will permit us."

(5) Gasoline service stations

Service stations, for the greater part, do not have separate restroom facilities for whites and nonwhites.

In summary, it is believed that Miami has progressed ahead of most other southern cities in desegregation and no real serious problems are apparent. The results have been obtained largely through the acceptance and actions taken individually by management rather than through any real concerted action. Local organizations, such as chambers of commerce, et cetera, have taken no public stand, but have quietly, in a sub rosa manner, endeavored to assure equal rights for all our citizens.

One of the most important developments in protecting the interest of all Miami's citizens has been the establishment of a "community relations committee" headed by the popular and respected Catholic Bishop Coleman F. Carroll. This committee, appointed by the county commissioners, consists of approxi-

mately 20 of the area's most prominent citizens, including 4 Negroes. Although only established weeks ago, they have been effective in preventing several demonstrations. It is intended that, through a paid director and staff, to keep abreast and possibly ahead of any serious situation or condition which might arise in the area. This plan might well be adopted by other U.S. cities.

The principal problem confronting the Negro population of Miami is economic, for job opportunities are scarce. The arrival of approximately 200,000 Cuban refugees to south Florida has presented strong competition for the laboring classes, which unfortunately include the majority of our Negroes. Efforts are being made through congressional representation to secure Federal aid in creating new jobs in the area.

NEW ORLEANS, LA.

(1) *Hotels and motels*

A Louisiana State law banning integration in hotels was recently declared unconstitutional by the courts. However, owners still have the right to refuse admittance to any person. Several of the larger hotels here accept Negroes with confirmed reservations.

There is a New Orleans city ordinance which in effect permits owners to refuse Negroes being served in white establishments where liquor is served. This includes dining rooms of white hotels and restaurants—which Negroes traditionally do not patronize here.

The large local Jung Hotel, now building a new annex for convention facilities, appears to be under economic pressure to accept Negroes, considering their interest in attracting convention guests.

The other large hotels, the Roosevelt and Monteleona, do not accept Negroes. Any plans they may have to change this situation are not known at this time. Motels here generally do not accept Negroes. There are several Negro motels in this area.

A large convention of the American Legion scheduled for New Orleans in September was transferred to Miami, giving the reason that Negro delegates would not be accepted at New Orleans hotels and motels. Anticipated attendance was over 50,000 persons.

This obviously involved considerable loss of convention money to the city.

The courts recently announced a decision to the effect that the New Orleans Municipal Auditorium must desegregate its facilities.

(2) *Theaters*

The Civic Theater (legitimate plays, movies, epics, etc.) has quietly integrated, although Negro attendance is negligible.

Movie theaters here still operate on a segregated basis, and there has been no move to change this situation. There are several Negro movie houses in the city.

(3) *Department and variety stores*

Lunch counters at several downtown stores, bus stations, the railroad station, and the airport, have quietly integrated, with but few Negroes using these facilities.

(4) *Service stations*

Restrooms at the bus stations, railroad station, and airport are used by Negroes. Restrooms in service stations in the city and along highways in this area are not used by Negroes.

(5) *Amusements and recreations*

The public parks here—City Park and Audubon Park, have been integrated for some months. There are two large lakefront amusement centers—one for white and one for Negroes. There is a suit pending for integration of playgrounds, swimming pools, baseball diamonds, etc., operated by "NORD" (New Orleans Recreation Department). These are still segregated, meanwhile. All swimming pools operated by this organization were closed recently "for financial reasons."

RICHMOND, VA.

We understand that approximately 95 percent of establishments catering to the public have been desegregated. It was announced in the newspapers that effective July 1 all the theaters, the municipal baseball park, the Richmond City auditorium, and approximately 80 percent of the restaurants and other eating facilities were totally desegregated.

Hotels and motor courts

1. The major hotels and motor courts in the area are presently desegregated. This is substantiated by some U.S. Government employees in the Federal building who have traveled in the area and State that they were granted accommodations at the hotels and motor courts.
2. Action was voluntary on the part of the hotel and motor court owners.
3. We are informed that there were no conventions canceled or attracted because the facilities were desegregated. Insofar as we can determine, there has been a negligible effect on business due to desegregation.

Restaurants

1. Many restaurants (approximately 80 percent we are informed) are now desegregated.
2. Gradual—over a period of several months.
3. Action was voluntary on the part of the owners.
4. The effects on business have been negligible.

Theaters (motion picture)

(Information supplied by local theater chain—and their practice is representative of other theaters in area outside chain.)

1. Approximately 85 percent of motion picture theaters in Richmond are desegregated.
2. June 10, 1963.
3. Theater owners initiated action themselves. There was mild demonstration (picketing) for about a week, but no court action and no public disturbance.
4. Effect upon business has definitely not been favorable. It is still too early to determine permanent effect.
5. One additional theater desegregated, without incident, week of July 15, 1963.

*Public recreation**Parks*

1. (a) There has never been any restriction against use of park grounds proper.
- (b) Ordinance presently before city council voluntarily to schedule reservation of park houses and shelters on park grounds on "first come first served" basis, regardless of color, race, or creed.
2. Action initiated by city council itself.
3. No public reaction to council's intent. No demonstrations to date, no complaints.

Playgrounds

1. There has never been any enforced segregation. Playgrounds are largely segregated by population distribution, but there has been no move to change this. No demonstrations. No restriction against admitting anyone who wishes to be.

Tournaments

1. Tennis tournaments under sponsorship of Richmond Tennis Patrons' Association will be desegregated from this time on.
2. This present season, according to best information.
3. Voluntary desegregation. Action initiated by Richmond Tennis Patrons' Association.
4. No reaction whatever. No demonstrations prior to voluntary desegregation.

Public baseball park

1. Present desegregated.
2. This present season, according to best information.
3. It is known that ball park is desegregated; however, there was a court case and we are unable to determine outcome. City recreation director out of town at this time.
4. No reaction. No demonstrations of any kind. Attendance shows no effect whatever.

Service station restrooms

(Information supplied by largest supplier in this area.)

Note.—Supplier leases its stations to private leasees and has no control over operation thereof. However, in its supplier-dealer-customer relations programs, company has always stressed the offering of services and facilities to anyone

patronizing service station. This constitutes no change in company's position since its institution. Following information supplied by public relations officer of company for the past 30 years:

1. It is the belief of the public relations officer, and his contact with private managers is a close one, that practically without exception service station restrooms are available to anyone regardless of color, race, or creed. He was unable to supply the name of any manager who, of his knowledge, denied its facilities because of race. What few complaints are received from customers come from white and colored, equally, and apparently have no relationship to race.

Department stores (retail and wholesale)

1. Totally desegregated as to sitting rooms, restrooms, and lunch counters. Hiring of Negroes in sales positions definitely on upswing.

2. Action was voluntary on part of owners.

3. No relation. No demonstrations. No effect on business noted.

ST. LOUIS, MO.

In general, desegregation in places of public accommodation here appears to be virtually complete. Information that we have been able to gather on specific types of accommodation is detailed in the following paragraphs. Incidentally, there was some reluctance to give us information over the telephone; personal interviews were made in many cases.

(1) Hotels and motels

We were informed that there isn't a single hotel or motel in St. Louis area that turns away Negroes. In fact, many hotels even solicit their patronage for conventions and meetings. An exception to this policy is one hotel (name not given) which normally assigns Negroes to their annex rather than to their main building.

The St. Louis Convention Board feels that the situation is quite favorable for Negroes in St. Louis with regard to hotel and restaurant accommodations. Quite a few years ago most colored organizations wrote into their bylaws that they would not hold meetings in cities that were not receptive to their groups, and since that time places of accommodation have opened up to them. However, this transition has not resulted in any appreciable gain or loss in convention business here.

(2) Restaurants

The St. Louis Restaurant Association assured us that at least 95 percent of its member restaurants followed a desegregated policy. This has been the situation for the past 3 years when the last several downtown restaurants desegregated at the request of Mayor Tucker. This followed walk-ins into these restaurants by small groups of Negroes.

(3) Theaters

We are not aware of segregation in any St. Louis theater.

(4) Departments and variety stores

We have talked to no one who is aware of segregation in any St. Louis retail store. Contacts were made with Famous-Barr and Vandervoort's, two of the three top department stores here.

(5) Amusements and recreations

There are three large amusement parks in St. Louis and St. Louis County, none of which is completely integrated. Forest Park Highlands, in the city, is essentially desegregated but it has discouraged use of the swimming pool by Negroes. "Members" are admitted for \$1 but nonmembers are charged \$1.50; as far as we can determine, no Negroes have been granted membership and they have not been using the pool. Chain of Rocks Park in the county follows a similar policy. Holiday Hill Park, also in the county, does not admit Negroes at all except when biracial schools hold outings there. Incidentally, these latter two parks are being picketed at the present time by NAAOP.

(6) Restrooms in service stations

To our knowledge this type of segregation has never been in effect in this area, in service stations or elsewhere.

In summary, then, there is practically no segregation in places of public accommodation in the St. Louis area. With the exception of the amusement

parks and the one hotel mentioned above, these business places appear to be completely desegregated, and have been for several years.

Senator MONRONEY. Thank you very much, Mr. Secretary, for the splendid statement, information, and data that you have provided for us.

I deeply appreciate having the statistical data regarding interstate travel and the lack of accommodations in various areas of the country.

I wonder if your men who made such an exhaustive study of this problem, however, bothered to really check behind the information you had from the travel guides in the North to find out the pattern of discrimination that often exists there against colored persons. The witnesses have testified to us, in numerous statements by advocates of opening accommodations, that the covert type of discrimination is sometimes more discouraging than the outright segregation and prohibition that is found in parts of the South. Yet your statement, while it quotes statistical data and paints a very unpleasant picture, which I am sure it is, for colored people traveling in the South, does not mention a few trial runs in the North.

Mr. ROOSEVELT. Mr. Chairman, one of the trips that we cite goes from Chicago to New Orleans, and at least half of that trip goes through Northern States.

I might say that perhaps Senator Hart is in a position to answer that question, because he borrowed my booklet. I think if I could get it back I could perhaps answer the question.

Senator HART. It is an enormously interesting and at the same time a discouraging booklet.

It opens an area to the white eye which in our preoccupation with our own travel plans we simply don't understand exists. We think we have troubles preparing to move a family of eight children, six of whom I put on a plane this morning. We haven't any trouble compared to the Negro family that wants to move eight children.

Mr. ROOSEVELT. That is true, Senator.

I might say, Mr. Chairman, going down the list of States, we find in the Southern States no white-owned travel facilities which signed this statement that they would accept both white and Negro, Catholic, Jew, and Protestant. On the other hand in New York State, among white-owned facilities, 32 have signed this declaration, and among Negro owned, 13 have signed it, which indicates certainly a strong comparison with Alabama, for example, where no white-owned travel facilities will permit Negroes to use those public accommodations, and there are 11 nonwhite owned which of course will accept regardless of race or color or creed.

The contrast there between, for example, New York and Alabama on a percentage basis is quite striking.

In New Jersey, there are 4 white owned and 19 Negro owned. In California, there are 20 white owned and 2 Negro owned.

In Connecticut there are six white owned and two Negro. In North Carolina there are no white owned and 18 Negro.

That is the pattern, Mr. Chairman.

Senator MONRONEY. Mr. Secretary, most of those States that you quote, having a high percentage of white-owned motels offering accommodations, have State laws that make it either a criminal penalty or the proprietor liable to suit for damages.

Mr. ROOSEVELT. That is correct.

Senator MONRONEY. I am surprised that you don't have even a complete list of all who say they would admit all races.

If only this many say they do, you are falling way short of the effectiveness of the law.

Mr. ROOSEVELT. Senator, these are the ones who make it known. I might say as to the laws specifying equal accommodations, the State of Maryland has such a law and you may have read this in the paper a couple of days ago. A group from Cambridge went to Annapolis for a quiet conference on the troubles in Cambridge, and the group included a Negro. When they got to the State capital they were not permitted to enter a restaurant because the owner refused to serve the Negro. The Negro was asked if he would bring action against the restaurant under the State equal accommodations law of Maryland, and he said "No," that he wasn't going to bother with it now, that they were more anxious to try and resolve the problems facing Cambridge. So there in the shadow of the State capitol we see a sample of a State law simply not being effective. It does not apply to counties which choose to be exempt.

Senator MONRONEY. We still get back to the insignificance of the figure that you just quoted for New York, Connecticut, and the Northern States indicating their willingness to admit Negroes, in spite of the fact that their State laws require complete admittance. You are not going to get at this problem of you just make a whipping boy of the South. The hypocrisy of the North, I think, is just as damaging if not more so, and I think you will find a great deal more public support if you recognize the fact and not expect the committee or the public to believe that everything has already been achieved in the North and that there is no further need for looking there.

It is always possible and probable for those who have not listed their accommodations in seeking to avoid biracial patronage to be always just out of accommodations, or of reservations.

Mr. ROOSEVELT. That is right.

Senator MONRONEY. No one can expect to investigate or prove whether they are or are not. That can be more discouraging, I am sure, where a person expects accommodations to be freely open and then finds that the barrier is still thrown up in the guise of "Sorry, no room is available," or "Our last room has been rented."

Mr. ROOSEVELT. Senator, you are absolutely correct. I did not mean to imply by my testimony that the North is complying 100 percent or has solved this problem completely.

There is no question that this discrimination in the North still exists to a large degree, a large measure, and we will be glad to run a trip across Northern States and submit that information to the committee.

I might add also that in New York State it is not only discrimination because of race, it has been traditional, among some of our resort places, to refuse to take members of the Jewish faith. But we have been campaigning against this type of discrimination in New York State for some time, and we have received a good deal of success.

Even there, it still does exist. But we will be glad, Senator, to do a trip for you and submit that information.

Senator MONRONEY. I think it would be helpful. Also, if we are going to rely on this report, it might be wise to send a few investigators

to just see what accommodations are open, both in the South and in the North, because all may not be gold that glitters in this picture. If you had that evidence it would be very helpful, to have an individual report of a field tour so that we know where we stand.

(The requested information follows:)

Illustrative trips showing location of hotel-motel accommodations of "reasonable" quality readily available to Negroes

NEW YORK, N.Y., TO LOS ANGELES, CALIF.

Location	Route	Miles
New York, N.Y. to Newark, N.J.	New Jersey Turnpike	11
Newark to Philadelphia, Pa.	do	56
Philadelphia to Norristown	Pennsylvania Turnpike	33
Norristown to Harrisburg	do	79
Norristown to Reading	do	42
Reading to Lancaster	do	18
Lancaster to Harrisburg	do	19
Harrisburg to Carlisle	do	11
Carlisle to Bedford	do	64
Bedford to Somerset	do	26
Somerset to Pittsburgh	do	53
Pittsburgh to Washington	do	48
Washington to Wheeling, W. Va.	70	28
Wheeling to Columbus, Ohio	40	125
Columbus to Springfield	40	44
Springfield to Dayton	40	49
Dayton to Indianapolis, Ind.	40	108
Indianapolis to Terre Haute	40	71
Terre Haute to St. Louis, Mo.	40	164
St. Louis to Springfield	40	218
Springfield to Joplin	44 and 66	73
Joplin to Tulsa, Okla.	66, 44, 71, and 166	123
Tulsa to Oklahoma City	44 and 166	95
Oklahoma City to Amarillo, Tex.	44 and 66	260
Amarillo to Albuquerque, N. Mex.	66	290
Albuquerque to Gallup	66	130
Gallup to Joseph City, Ariz.	66	75
Joseph City to Grand Canyon	61 and 89	80
Grand Canyon to Kingman	66	129
Kingman to Barstow, Calif.	66	210
Barstow to San Bernardino	66	72
San Bernardino to Los Angeles	10	50
Total mileage: New York to Los Angeles		2,757
Average miles between locations		195

NEW YORK, N.Y., TO SAN FRANCISCO, CALIF., VIA CHICAGO

New York, N.Y. to Newark, N.J.	New Jersey Turnpike	11
Newark to Philadelphia, Pa.	do	56
Philadelphia to Norristown	Pennsylvania Turnpike	33
Norristown to Harrisburg	do	79
Norristown to Reading	do	42
Reading to Lancaster	do	18
Lancaster to Harrisburg	do	19
Harrisburg to Carlisle	do	11
Carlisle to Bedford	do	64
Bedford to Somerset	do	26
Somerset to Pittsburgh	do	53
Pittsburgh to Youngstown, Ohio	do	68
Youngstown to Akron	Ohio Turnpike	53
Akron to Cleveland	do	72
Cleveland to Fremont	do	67
Fremont to Toledo	do	20
Toledo to Maumee	do	9
Maumee to Angola, Ind.	do	71
Angola to Michigan City	Indiana toll road	144
Michigan City to Chicago, Ill.	Indiana toll roads 80 and 90	27
Chicago to Rockford	Indiana toll road	80
Rockford to Dubuque, Iowa	20	84
Dubuque to Sioux Falls, S. Dak.	20	377

! Average is 80 miles if the stops between Norristown and Harrisburg are included.

Illustrative trips showing location of hotel-motel accommodations of "reasonable" quality readily available to Negroes—Continued

NEW YORK, N.Y. TO SAN FRANCISCO, CALIF., VIA CHICAGO—Continued

Location	Route	Miles
Stour Falls to Chamberlain.....	28 and 16.....	138
Chamberlain to Rapid City.....	16 and 90.....	212
Rapid City to Gillette, Wyo.....	16, 20, and 90.....	60
Gillette to Buffalo.....	20 and 90.....	80
Buffalo to Yellowstone National Park.....	20 and 90.....	220
Yellowstone National Park to Grand Teton.....	20 and 90.....	61
Grand Teton to Alpine.....	89.....	67
Alpine to Logan, Utah.....	89.....	156
Logan to Ogden.....	89.....	43
Ogden to Salt Lake City.....	89.....	67
Salt Lake City to Elko, Nev.....	40.....	186
Elko to Reno.....	40.....	341
Reno to Sacramento, Calif.....	40.....	179
Sacramento to Berkeley.....	40.....	110
Berkeley to Oakland.....	40.....	10
Oakland to San Francisco.....	40.....	8
Total mileage: New York to San Francisco.....		3,248
Average miles between locations.....		190

CHICAGO, ILL., TO SEATTLE, WASH.

Chicago, Ill., to Madison, Wis.....	90.....	115
Madison to Wisconsin Dells.....	90.....	53
Wisconsin Dells to Eau Claire.....	12.....	134
Eau Claire to Minneapolis, Minn.....	12 and 94.....	70
Minneapolis to Little Falls.....	10.....	99
Little Falls to Detroit Lakes.....	10.....	100
Detroit Lakes to Fargo, N. Dak.....	10.....	48
Fargo to Bismarck.....	10.....	187
Bismarck to Glendive, Mont.....	10.....	201
Glendive to Billings.....	10 and 12.....	228
Billings to Helena.....	12.....	199
Helena to Missoula.....	12.....	121
Missoula to Coeur d'Alene, Idaho.....	10.....	166
Coeur d'Alene to Spokane, Wash.....	10.....	35
Spokane to Cle Elum.....	10 and 97.....	208
Cle Elum to Seattle.....	10.....	83
Total mileage: Chicago to Seattle.....		2,044
Average miles between locations.....		128

NEW ORLEANS, LA., TO LOS ANGELES, CALIF.

New Orleans, La., to Baton Rouge.....	61.....	50
Baton Rouge to Shreveport.....	71.....	235
Shreveport to Dallas, Tex.....	80.....	189
Dallas to Amarillo.....	81 and 287.....	310
Amarillo to Albuquerque, N. Mex.....	66.....	290
Albuquerque to Kingman, Ariz.....	66.....	480
Kingman to Barstow, Calif.....	66.....	210
Barstow to San Bernardino.....	66.....	73
San Bernardino to Los Angeles.....	10.....	50
Total mileage: New Orleans to Los Angeles.....		1,896
Average miles between locations.....		210

1 Average is 85 miles if the stops between Norristown and Harrisburg are included.

Senator PASTORE (presiding). I think this is an appropriate place, Mr. Monroney, for us to make the point that this legislation is not aimed particularly against the South; this is for all Americans. And this includes the whole 50 States: North, South, East, and West. This idea that there is any attitude of hostility or vindication or recrimination against the South is a fallacy. This is a national problem. This discrimination exists in every State in one form or another, in one shade or another.

While it is true that you cite four or a half dozen cases, that doesn't tell the whole story. There may be four or five white owners of motels in New York that do permit integration of the races. But when you measure that up against the whole complex of New York State you have to admit that we fall far below the mark that we try to achieve if America is going to assume the characteristic of oneness.

Mr. ROOSEVELT. I agree completely, Senator.

Senator MONRONEY. We have had some testimony here that demonstrates, I think, a very deep-seated fear on the part of many motel operators, and particularly cafe owners, that their business will be destroyed in these certain regions where they have long been accustomed to complete and total segregation. Are there any plans in mind for financial help, in other words, availability of small business loans by special treatment or other sources of help, to give these men who would like to desegregate but fear economic hazards in the process, some additional assistance to survive what they fear would be a very great and sudden shock to their business? I detect in these hearings a genuine fear on the part of men who have testified.

Some are extremely prejudiced and wouldn't provide for desegregated facilities if the Government picked up all of the loss. And yet there is some degree of sincerity in the feeling that they face a great hazard with desegregation.

Mr. ROOSEVELT. Senator, it is our belief that this is important in the application of a minimum business. We strongly urge that the committee does not set such an exemption benchmark whereby you might walk down a street and one restaurant would be doing over, say, \$30,000 worth of business and therefore would be subject to this legislation, and next door the restaurant was doing less than \$30,000 worth of business and he would be exempt. That was what I meant by the possibility of the exempt restaurant even advertising the fact that it was exempt. Of course, it would immediately draw those customers who wanted to eat only in a lily-white facility. Incidentally, it might also pinpoint those facilities where further demonstrations might take place.

Our feeling is that if all restaurants were covered equally by this legislation, except those which had a small almost clublike clientele, that if all were treated equally there would be no economic advantage of one over the other.

The same goes for motels. The same goes for all public facilities. If all are treated equally, and all must comply with the legislation, then it is our feeling that no one will get hurt and no one small group could take advantage of the majority.

But of course it is within the committee's judgment to consider whether in special cases of damage (which in our opinion would be very isolated) there should be some compensatory arrangement. But we don't feel that this would be necessary, at least from our studies up to the present, as long as all facilities are treated equally.

Senator MONRONEY. That is all that I have Mr. Chairman. Thank you very much, Mr. Secretary.

Senator PASTORE. Any further questions?

Senator COTTON. I have one.

Senator PASTORE. Senator Cotton.

Senator COTTON. Mr. Secretary, you have given us a very able, forthright, and well-documented and helpful statement, for which I compliment you. I note, Mr. Roosevelt, that at the head of your statement you are appearing as the Acting Secretary of Commerce. Where is the Secretary?

Mr. ROOSEVELT. Senator Cotton, the Secretary spoke at the Governors' conference in Miami last night. After an arduous week of serving on the President's Factfinding Panel on the railroad situation, and in accordance with long-laid plans, I believe that today he is starting a brief 1-week vacation, which leaves me as the Acting Secretary.

But I might say, Senator, that his record is well known and well documented on the broad question of civil rights, and I am very proud of his record, and I am very proud to serve under him.

Senator COTTON. My question implies no disrespect for the distinguished Secretary of Commerce.

I note that you, in the first page of your statement, say, in your words:

Let me say at the outset that we in the Department of Commerce support this legislation * * *.

Are you definitely and with authority stating that the Secretary is supporting this legislation?

Mr. ROOSEVELT. I asked the Secretary before he left whether I could speak on behalf of the Department of Commerce, and he said definitely, yes.

And so I do speak for the Department of Commerce.

Senator COTTON. The Department of Commerce.

I don't want to be picking at small straws. Are you definitely reflecting the views of the Secretary of Commerce? I am not disparaging you, but he is a Cabinet officer.

Mr. ROOSEVELT. I understand, sir.

Senator COTTON. This is a vital program of the President. We have had three Cabinet officers here already. From time to time, I have been amazed how important a small minority group of Republicans have become in this picture. To my mind, if it fails, somebody on our side is going to be blamed for it. I hope we always have one Republican left in the Senate to take all responsibility.

I am not trying to be disagreeable. You say that he gave you authority to speak for the Department of Commerce. Did the Secretary of Commerce give you authority to speak for him, and does your statement reflect his views?

Mr. ROOSEVELT. Senator Cotton, as I indicated, the Secretary has had a very difficult and a very busy period during the preparation of this statement. He told me to prepare the statement. He told me that I spoke for the Department of Commerce. And in my position I do speak for the Department of Commerce. And I might add that in his absence I am also a member of the Cabinet and appear here, although as Acting Secretary, as a temporary member of the Cabinet.

I did not have a chance to discuss in detail all of the points set forth in the statement with the Secretary before his departure. I am afraid you will have to ask him point by point if he agrees personally

with it, but as I said, his position on the broad issue of civil rights is thoroughly well documented and well known.

But I cannot say that everything that I present here in this testimony is with his specific personal approval, because it is not.

Senator COTTON. Thank you. I did not seek to embarrass you, and you handled the question very, very well. You have answered almost everything except the question. [Laughter.]

Senator HART. Mr. Chairman, will the Senator yield for an inquiry?

Senator COTTON. Certainly. I will be very glad to.

Senator HART. Thank you. I want to get this point nailed down if we can.

I understood from Secretary Roosevelt's answer that Secretary of Commerce Hodges supports the administration bill this committee is considering. If this is not a correct assumption, I, too, would welcome having the Secretary. But I understand from Mr. Roosevelt that Secretary Hodges supports and endorses the administration bill. Is this correct?

Mr. ROOSEVELT. Senator, I will try to answer that, and I regret that my friend from New Hampshire, Senator Cotton, feels that I did not answer his questions.

Senator HART. As my question indicated, I thought you had. I am just trying to find out.

Mr. ROOSEVELT. I cannot say specifically that Secretary Hodges does support or does not support, because I never frankly asked him that question, simply because he told me he had to be away and he gave me full authority to speak for the Department of Commerce. So that ended it as far as I was concerned.

In my judgment the monkey was on my back at that point.

Senator HART. Thank you very much, sir.

Mr. ROOSEVELT. We try to share responsibility in the Department because we do have quite a burden to carry, and last week, while he was busy on the railroads, I was somewhat preoccupied with the *Savannah*. So there has to be some division of labor. And in this case this particular bill, I was designated to testify.

Next week I believe Secretary Hodges will testify before Mr. Bonner's committee on the Bonner bill dealing with maritime labor. And so it goes.

Senator PASTORE. I don't think we have to belabor this point. All that the Senator from New Hampshire wants to know is whether the views you expressed here this morning are joined in by the Secretary himself. That is very simple. I understand you haven't asked him. So unequivocally you cannot make a categorical answer to him.

Mr. ROOSEVELT. That is correct.

Senator PASTORE. You explained that as reasonably as anything could be explained. I would hope that you would address yourself to the Secretary of Commerce and have him send us a letter advising us whether or not he supports the administration bill.

Mr. ROOSEVELT. May I suggest, Senator, that such a request should come from the chairman?

Senator PASTORE. Will you carry the message back to him?

Mr. ROOSEVELT. Yes, sir.

Senator COTTON. If I have belabored this matter unduly, I am sorry. It seemed proper to me in view of the array of witnesses

we have had, the Attorney General of the United States, the Secretary of State of the United States and the Secretary of Labor. I happen to be one, as you very well know, who supported your confirmation, and I have a high regard for your ability. You have demonstrated by your statement today, if you haven't before, a complete capacity to handle this matter. I felt, however, that was a proper question, and I can understand that you would hesitate to voice the individual views of another man. But it was interesting to note your replies, and I think they were very well done. I compliment you on them, too.

Senator SCOTT. Will the Senator yield? I suspect that what the Senator from New Hampshire is curious about is to find out what the former Governor of North Carolina would say to the former Governor of South Carolina. [Laughter.]

Senator CORSON. Mr. Secretary, any other questions that I might have regarding your statement would be, I think, more properly made to the Assistant Attorney General, who is going to testify, because they have to do with technical parts of the bill. Therefore, I thank you and I have no further questions.

Senator PASTORE. In that regard I would like to make an announcement. I received a call a short while ago from the Attorney General who explained that Mr. Marshall is now engaged in some official duties of considerable importance and immediacy, and that he would hope that the committee would indulge Mr. Marshall and call him back some other time, and I agreed to it. Mr. Marshall is ready to come any time we ask him to come. But it would be rather inconvenient for him to come here this morning as was planned for the reason that he is now engaged in very important business in cooperation and in coordination with the Attorney General himself.

Senator CORSON. Mr. Chairman, I can understand that and I want to cooperate. I was given 4 minutes with Mr. Marshall, due to the fact that the rest of the committee used up the time. I have been waiting to ask some questions that I think are not frivolous and that are extremely important to the merits of this legislation. I certainly want to have an opportunity to ask him.

In view of the fact that it may be some time before I ask him, may I have 3 more minutes with the Secretary now?

Senator PASTORE. Positively. As a matter of fact, take all the time you care to take.

Senator CORSON. Your statement has indicated a very thorough study of this proposed act. There are just one or two things that I would like to call to your attention and receive your comments on, and those by no means cover what I want to ask the Assistant Attorney General.

I am not going into the effectiveness of this legislation. I don't believe there is anybody on this committee who wants to see the spectacle of people traveling the interstate highways of this country from State to State being turned away because of their color or national origin or their religion, race, or anything else of that nature.

However, this bill provides simply an injunctive remedy.

If Mr. A, a Negro, seeks accommodations at a motel and is denied the accommodations, he goes to the court for an injunction to get an order forcing the motel owner to admit him. And the motel owner, if he then refuses, is in contempt of court and could be punished.

For 90 years we have been trying to enforce the voting rights and the citizenship rights of Negroes in Southern States. The statute books have been covered with laws, some of which Congress passed only a couple of years ago and passed with my vote. It has been in the Constitution. But anyone with reasonable commonsense—and I don't want to stir up my southern friend here, this is not another Civil War between the States—anyone with commonsense knows perfectly well that year by year and decade by decade the enforcement has been avoided by means of literacy tests and by means of all kinds of expedients.

Very shortly this act will have to be replaced by one that really carries punishment, that doesn't carry as general, as slow, as round-about a process, or else it will take 90 years to make this law effective if it is constitutional and if it is passed by the Congress.

I put that up to you for your comment.

Mr. ROOSEVELT. Senator Cotton, I did not write this proposed legislation, or the enforcement clause of this proposed legislation. I recognize the historic validity of your comments, but in all frankness I feel that this is a subject on which the Attorney General or his representative should express the legal opinion of the administration, rather than I in my capacity as Acting Secretary of Commerce.

We attempted to deal more with the economic impacts of the legislation and the economic needs of the legislation rather than the legalistic problems involved. Therefore, while I recognize the difficulties that you point out as to rapid enforcement, and while I certainly concur that we don't want another 90 or 100 years and we don't want the same kind of ways of getting around it, all the way from the poll tax to literacy tests in the case of voting. I think this is really a subject to which the Attorney General or his representative should speak rather than me in my capacity.

Senator COTTON. I think that is perfectly sound.

My other question, which had to do with the word "transient," which is of deep interest to some people in my State, and with the words "substantial effect on commerce."

I think you are perfectly correct, you are not the person I should ask. I hope that I shall have the opportunity to ask it of someone from the Attorney General's Office.

Thank you.

Senator PASTORE. The chairman unequivocally makes that assurance, that Mr. Marshall will be here, to be interrogated by the distinguished Senator from New Hampshire if the Senator chooses.

Are you through, Senator?

Senator COTTON. Yes; thank you.

Senator PASTORE. The Chair calls on the distinguished Senator from South Carolina.

Senator THURMOND. Thank you, Mr. Chairman.

Speaking of voting, your father always did all right down South, didn't he, Mr. Roosevelt?

Mr. ROOSEVELT. Yes, sir; I am very pleased to say that he did. In fact if we remember 1936, when I guess it was only Maine and Vermont which didn't go along. But now even Maine goes along. And also Vermont has a Democratic Governor.

Senator COTTON. Never mind New Hampshire.

Mr. ROOSEVELT. I was there last weekend, Senator, and I enjoyed the beauties of New Hampshire. I was very pleased to see the trend in New Hampshire as well.

Senator COTTON. And you were not discriminated against?

Mr. ROOSEVELT. No, sir; I was not. [Laughter.]

Mr. ROOSEVELT. And I might say neither was my daughter at the camp she is at.

Senator THURMOND. Mr. Secretary, in your statement you have succeeded in portraying the South as fast becoming an industrial desert and an area of ghost towns. Do you believe that the facts actually do sustain this?

Mr. ROOSEVELT. Senator, I would say that that is somewhat of an exaggeration drawn from my statement. I would not like to say it is a gross exaggeration, but certainly that is far from my mind in presenting this testimony. I was simply trying to point out the difficulties that now confront various aspects of the business community in the South.

Senator THURMOND. Did not the Southeast gain considerably in population, according to the census, from 1950 to 1960?

Mr. ROOSEVELT. Yes, sir; I believe it did.

Senator THURMOND. Secretary of Labor Wirtz, testified just a few days ago that the South and Southeast had grown in industrial development much faster than most other regions since 1940. Would you agree?

Mr. ROOSEVELT. I think except for California, and perhaps one or two other States, I think the South, from an industrial point of view, has certainly made great strides.

Senator THURMOND. To what do you attribute these strides?

Mr. ROOSEVELT. I attribute them, No. 1, of course, to the new developments of the raw materials available; for example, in the developments of chemicals from turpentine and other resources, and the extraction of other materials from the wood products. I attribute them to a determination of the South to diversify its economy from basically an agricultural economy to an industrial economy as well; I also attribute them to the historic fact that over a long period of time wages were considerably lower in the South than they were in the North—for example, the movement of the textile industry into the Southern States was due to the fact that wages were lower in the South than in New England.

Senator THURMOND. Was that the case, or was it other things about labor unions and working conditions?

Mr. ROOSEVELT. Well, I am not sure it was strictly about labor unions and working conditions. But labor was more plentiful and was more available in the South than was true in, for example, the textile industry in the North or Northeast.

Senator THURMOND. In any event the South has made this great industrial progress in spite of their alleged discrimination?

Mr. ROOSEVELT. There is no question about it, Senator. And I would also say, borrowing a page from history, as you well remember, one of my father's greatest objectives was to assist and direct and do everything he could to help the South to industrialize. If he were alive today I know that he would be very proud of the accomplishments of the policies which he instigated.

Senator THURMOND. Mr. Secretary, if this legislation were enacted, what effect would it have upon the many establishments in the South, particularly owned by Negroes, for Negroes exclusively? Would they not lose their clientele?

Mr. ROOSEVELT. No, sir; I don't think so. Frankly, I think by opening up their establishments to a larger market they might even do better business. In fact, I think that this legislation might even accelerate the progress, the economic progress and the industrial progress that has been made in the last 20 to 25 years. If this legislation had been in effect 25 years ago, I think the progress in the South might have been even more dramatic. And I think that that will be the case in the future when this bill is passed.

Senator THURMOND. In other words, you mean that the South is destined to lead the Nation in all respects in the future?

Mr. ROOSEVELT. Oh, I don't think I would like to make such a complete prophesy. But I certainly look forward to the South being a dynamic force within the economy.

Senator THURMOND. We are glad to have your prophetic opinion on this.

Mr. Secretary, has not interstate travel in recent years increased considerably? Isn't this true also in the South?

Mr. ROOSEVELT. I think interstate travel has increased considerably all over the country. The purpose of my statement was to point out that—for example, in regard to the use of automobiles, Negroes use their cars about 40 to 50 percent less than whites do of similar comparable economic levels. I attribute this lower use to the fact that Negroes shy away from taking long trips where they may have, in the case of going from here to Miami, an average of 145 miles between places where they can stop to sleep.

I think that if this legislation had been in effect you would have seen a great increase in tourism by the Negro community. I think, of course, that the economic effects on the South would have been even greater. And of course the effect on the gross national product would have been even greater.

Senator THURMOND. Mr. Secretary, does this great increase in interstate travel in recent years indicate to you that interstate travel is being burdened to any great extent?

Mr. ROOSEVELT. Senator, the whole purpose of that section of my testimony I believe documents the fact that interstate travel as far as the Negro community is concerned is very heavily burdened by the segregation of public accommodations throughout not only the South but throughout the North and the West and the Midwest. The sooner we eliminate this discrimination, the sooner we will have not only the right of these American citizens in peace as well as in war to be equal citizens, I think we will see tourism and interstate travel greatly increased.

It is incredible to me, Senator, that a Negro in war can be asked to travel to the far corners of the world to defend his country, and yet we tell him that he cannot go from Washington to Miami except if he is willing to stop every 145 or 150 miles to rest himself or to eat, or even to go to the bathroom.

This is rather a strange way of recognizing rights of citizens.

Senator THURMOND. Mr. Secretary, I think you are tremendously exaggerating the situation. For instance, I observe in your chart you don't show any rest place here between Columbia and Savannah on Route 1. Aiken, S.C., itself has a Negro hotel. That is not mentioned here. There is nothing indicated. There is one there. That happens to be my hometown. Who made your survey?

Mr. ROOSEVELT. This survey was taken from this book, this pamphlet, called "Go." Frankly, this is not a complete survey. It does not indicate all of the places. It is a preliminary survey of places of reasonable quality. Quite frankly, it does not cover every place because some places are substandard.

Senator THURMOND. In a way it is misleading then.

Mr. ROOSEVELT. As I said in my testimony, Senator, if we cut these figures in half, or even in quarters, it would still be to me a rather shocking situation.

And that is right in my statement.

Senator THURMOND. When people start out to draw conclusions and base their surveys of facts to reach those conclusions, they generally reach their decision, don't they? Was that the case here?

Mr. ROOSEVELT. Senator, I think—

Senator THURMOND. Was that the case here?

Mr. ROOSEVELT. No, sir; it is not the case.

Senator THURMOND. Who made the survey? How do you know it is not the case?

Mr. ROOSEVELT. If you will read my statement, can I read again the paragraph—

Senator THURMOND. You may read it again. Who made your survey?

Mr. ROOSEVELT. The survey was made by Mrs. Jackson, who publishes this magazine and who is an expert on travel for Negroes in all parts of the country. In the brief time that we had, we did not have the funds allocated in our appropriations to send a person on this route, we asked for the compilation by somebody who knows these routes. And that is frankly presented in my statement. I pointed out that if you accept only 50 percent of the distances of these figures—

Senator THURMOND. So it was not an official survey?

Mr. ROOSEVELT. No, sir; it is not an official survey.

Senator THURMOND. And you can hardly say it was made by an objective person in view of the connection that this woman has?

Mr. ROOSEVELT. I would say it is made by somebody who knows the problem and who has suffered under the problem, and who has, through her experience and her work, been living with this problem for a good long time.

I would be glad, Senator, to volunteer to go with you and a Negro of our selection and I would be glad to take any trip in any part of the country with you, and we will come up with the documented evidence. And I think that both of us will wind up being rather shocked by the evidence.

Senator THURMOND. It indicates that the facts brought out in many of these hearings should show that not just the South is derelict. Did you hear Mr. Wilkins testify yesterday? Or did you hear about his testimony, in which he specifically said he couldn't buy a cup

of coffee and sandwich, I believe he said, in the State of Idaho. I am not saying that. This is what he said. And that he couldn't get served in the State of Utah. And he called that the great holy State. He went on to the sinful State, as he called it, of Nevada, and got served there. Did you hear that?

Mr. ROOSEVELT. I read that in this morning's newspaper.

Senator THURMOND. So the South is used in many cases as a whipping boy, isn't it?

Mr. ROOSEVELT. I believe, Senator, that I have already made clear, in answer to Senator Monroney's questions, that it is not our intention to make the South the whipping boy. This is a problem which confronts Negroes in every part of this country. It is also a problem which confronts minority religious groups in some specified areas of the country. It is not our intention to make the South a whipping boy in any possible way.

It is a problem which confronts the entire United States.

Senator THURMOND. As a general proposition in the past, the South has been considered "in the bag." The Democrats felt they had it anyway. The Republicans felt that they had no chance to get it. And so the South was ignored. It was used as a whipping boy. But I can tell you here and now that the South is independent from now on. The South is going to look after the interests of the South in the future. We are not beholden now to any party. I want to make that clear.

Mr. Secretary—

Mr. ROOSEVELT. Senator, may I comment? Frankly, I have lived in politics all my life. I am thoroughly familiar with what you are referring to. But may I say that I hope that this legislation will not be viewed as a political piece of legislation; it will not be voted on from a political point of view; but it will be voted on because of the conscience of America as reflected in the conscience of the 100 Senators and the 435 Members of the Congress.

Senator THURMOND. I want to say that when I oppose this legislation I am not opposing it necessarily as a Southerner. I am opposing it as an American because it deprives people of their freedom. The Constitution provides in the 5th and 14th amendments that no person shall be deprived of life, liberty, or property without due process of law. In my judgment this bill does exactly that. It deprives a person of the use of his property, from using and controlling his property as he sees fit. It is a sound constitutional principle. And a bill almost identical to this was held unconstitutional by the Supreme Court in 1883, as you well know.

Mr. ROOSEVELT. Senator, may I make two comments on that. First of all the bill in 1883 was based entirely on the 14th amendment, and not also on the commerce clause.

Secondly, may I comment that I feel that the hotel in Birmingham that had to turn away a biracial convention and thereby lose the business because of a municipal statute enforcing segregation of that public facility, was just as much a deprivation of the rights of that hotel owner to earn his living as is this legislation which you interpret as depriving him of the right to segregate. I think that if you can segregate by law, then you can desegregate by law.

And I think from an economic point of view you are giving a man a broader market, you are giving him greater freedom to use his prop-

erty as he should. If he is going to make a profit out of public accommodations and service to the general public, he will do better business if he offers his service to all Americans.

Senator THURMOND. Is that being done anywhere now, Mr. Secretary? Anywhere? In the South? Anywhere else?

Mr. ROOSEVELT. There are segregation statutes and segregation ordinances. I just referred to the one in Birmingham, which I believe now, with the new administration in Birmingham, is under consideration to be removed. But there are local segregation ordinances all over, and perhaps well outside of the South there are segregation ordinances.

Senator THURMOND. Are those ordinances effective, Mr. Secretary?

Mr. ROOSEVELT. I believe that for the last 100 years they have been effective and too effective, and they have interfered with the right of the businessman to serve all Americans. They have had a restraining effect on the growth of his business. I trust that this legislation will abolish this restriction.

Senator THURMOND. Did you not know that within the past few weeks the U.S. Supreme Court had stricken down such ordinances so that they are no longer legal, and that any city that has such an ordinance or State has it declared unconstitutional and invalid?

Mr. ROOSEVELT. And yet as late as—

Senator THURMOND. Therefore there is no law now of the kind of instances that you mention.

Mr. ROOSEVELT. Senator, the application of a Supreme Court decision in a specific case is not always put into effect in its broadest sense for a long time, and I would suggest that the experience with the now famous 1954 Supreme Court decision with regard to desegregation of the schools is a good example of how long it takes for our conscience to catch up to the decisions of the Supreme Court.

Senator THURMOND. Are you taking the position then that that decision was a law of the case and not the law of the land?

Mr. ROOSEVELT. No. I am saying that the law of the land often takes a long time before it becomes thoroughly effective throughout the land. Here it is almost 10 years after the school desegregation case and we still are working on the problem.

Community by community, school board by school board, State by State, university by university. And I don't want to get into the tragedies of this last year in the case of the University of Mississippi and the near tragedy at the University of Alabama. I think that there is no disagreement, Senator, that the law of the land takes time to become effective.

Senator THURMOND. Those tragedies which resulted from intervention by the Federal Government could have been prevented if Federal forces had been kept out of those States.

Mr. ROOSEVELT. That is a matter of opinion, Senator.

Senator THURMOND. Mr. Secretary, I agree with you that it is the law of the case. At the same time the effect of that decision would not carry any ordinance or any statute that is contrary to it, isn't that true?

Mr. ROOSEVELT. It is true, and it is equally true that it takes time.

Senator THURMOND. If it is tested.

Mr. Secretary, with reference to your statement on the bottom of page 12, that "Southern Negroes spend less than Southern whites and Northern Negroes for admissions," is it not true that Southern whites also spend less than Northern whites for admissions?

Mr. ROOSEVELT. No, sir. Actually if you will turn to table 3, which immediately follows page 12, if you will go to the income class and region—taking the \$2,000 to \$3,000 group. Whites for admissions in large northern cities spend \$29, and in large southern cities spend \$36. So actually in the income bracket of \$2,000 to \$3,000 the Southern city whites spend \$7 more, or approximately 20 percent more on admissions than do the northern city whites. Let's go to the next income group of \$3,000 to \$4,000. Again the southern white spends \$2 more than the northern white, and it is not until you get into the \$4,000 to \$5,000 group that you get the northern white actually spending \$3 more than the southern white.

Senator THURMOND. You are speaking now of the larger cities of course?

Mr. ROOSEVELT. What?

Senator THURMOND. You are speaking of the larger cities?

Mr. ROOSEVELT. Yes, sir. That is the only information we have at the present time.

Senator THURMOND. So you do not have the information for the other parts of the country. What is the ratio between northern white and southern white expenditures, and northern Negro and southern Negro expenditures?

Mr. ROOSEVELT. Senator, may I just answer that last question. We have the information on rural whites in the North and rural whites in the South. We didn't run those statistics but we can supply them to you. But the pattern is the same as it is in the large cities, both North and South.

What is the next question?

Senator THURMOND. The southern whites do spend more than northern whites for admissions.

Mr. ROOSEVELT. Yes, sir.

Senator THURMOND. So this alleged discrimination hasn't hurt the South, has it?

Mr. ROOSEVELT. I think if we turn now to the column on Negroes, we will see that in the \$2,000 to \$3,000 bracket a complete reversal of the white situation where the white spends \$7 more in the South than in the North. In the South the Negro spends \$23 against the northern Negro spending \$31, or a difference of \$9 less in the South.

If we go to the next bracket of \$3,000 to \$4,000, again it is the reverse of the white. The southern Negro spends \$37 as against \$45, or a difference of \$8 in favor of the northern Negro.

And then you go to the \$4,000 to \$5,000 bracket and it is more graphic. Here the northern white spends more than the southern white by \$3, but the northern Negro spends \$57 as against \$39 for the southern Negro. The northern Negro spends \$18 more, or almost 50 percent more.

So it is incontrovertible that discrimination in the admissions field has resulted in the reverse pattern for the Negro as against the white.

Senator THURMOND. Of course, Mr. Secretary, after the Confederate War ended, the South had no Marshall plan. They were flat on their

backs. What was done for the Negro was done by the southern white man. Some came north and they naturally fared better, with the great masses of the Negroes in the South. Don't you think the southern people did pretty well?

And aren't they putting forth greater effort today in schools and in every other way for Negroes than any other portion of the country? Statistics will bear that out, will they not?

MR. ROOSEVELT. Senator Thurmond, I am not going to get drawn into an argument as to whether the South has done well or half well, or very well. I think the statistics that I have given you point out that the South has not done well enough, and that is the whole question here. A hundred years have gone by, and there still is this discrimination.

SENATOR THURMOND. According to what Mr. Wilkins said, Idaho and Utah and other Northern States have not done well enough. Don't you have the greatest segregation in America today in Chicago and in New York?

MR. ROOSEVELT. Senator, you are entirely correct on that, and I have tried to emphasize that this is a national problem, not just a regional problem of the South. In fact, in Brooklyn, N.Y., yesterday, there were some 3,500 pickets around construction jobs trying to get the construction trade unions to open up their union membership to nonwhites. So that points up to me that this is not a regional problem; it is a national problem.

SENATOR THURMOND. Mr. Secretary, on the top of page 15 you indicate that the demonstrations in Birmingham prevented the holding of several conventions there. Since these possible conventioners showed an interest before the demonstrations, even though they knew of the policy of segregation, does not this indicate that the demonstrations themselves and the threat of violence kept them away?

MR. ROOSEVELT. That is a conclusion, but there is also a further conclusion that the demonstrations themselves are a reflection of the local situation, an extension of the discrimination, a result of the discrimination, and basically in my opinion, while the disturbances may have canceled those conventions—and these happen to have been conventions which would not have involved Negroes getting equal facilities—the actual fact is that one convention did not go to Birmingham—I think it was the Music Teachers Association—because they could not be assured of equal accommodations for their Negro membership.

SENATOR THURMOND. You would have to agree that the convention was scheduled there, and later the demonstrations came on and the convention was canceled. It must have been the demonstrations.

MR. ROOSEVELT. Both segregation and demonstrations.

SENATOR THURMOND. It couldn't have been the segregation because the convention was already set, it was scheduled there.

MR. ROOSEVELT. No; it was not necessarily scheduled there. For example, the Southern Baptist Convention of Nashville, Tenn., with 6,000 to 8,000. When they found out they could not have equal facilities—

SENATOR THURMOND. I am speaking of the Birmingham convention which was set.

Mr. ROOSEVELT. I am talking of that. They wanted to hold their convention in Birmingham and when they could not get assurance of equal accommodations—

Senator THURMOND. Where did they hold their convention?

Mr. ROOSEVELT. That is not set until 1965. But they obviously will not unless they can get equal accommodations in Birmingham.

Senator THURMOND. I am talking about the one they wanted to hold in Birmingham. Where did they hold it?

Mr. ROOSEVELT. I don't know where they wound up holding it. They did not hold it in Birmingham.

Senator THURMOND. On page 19, in the second paragraph, you quoted a Birmingham city official as saying that the turmoil scared away a new industry. Does not this—

Mr. ROOSEVELT. No; I quoted one of the officials of one of the leading banks in the second paragraph.

Senator THURMOND. Does not this work to the detriment of many Negroes who would be employed by this industry when their demonstrations kept the industry from locating there?

Mr. ROOSEVELT. Let me put it this way: If there had been no discrimination, there would have probably been no necessity for those demonstrations, and that Ohio industry would have moved to Birmingham.

Senator THURMOND. It wanted to move to Birmingham; it knew of Birmingham's segregation policy and yet it wanted to come, but it canceled because of the demonstrations, did it not?

Mr. ROOSEVELT. Well, to me it is one and the same thing. The demonstration was the result of the 100 years of discrimination. If the Negroes had continued to be second-class citizens, then I suppose this industry might have moved down there. But the Negroes decided that they were no longer going to be second-rate citizens, and they decided that it was time that they sought equality for their rights, and recognition of their rights as citizens. And so this industry did not move to Birmingham.

And I think I also quoted an example of another industry which actually moved to Tennessee and now has to bring its steel from Birmingham to Tennessee to carry on its business, a rather uneconomic transportation problem.

Senator THURMOND. Mr. Secretary, I don't see why anybody has to be a second-class citizen. I think every citizen ought to have equal rights. But as to whether they want to serve people on their private property is a matter for them. That is a freedom, isn't it? Isn't that freedom, to handle your own private property as you see fit?

If a woman has a beauty shop in a home, or downtown, if she wants to serve certain clientele, why shouldn't she be allowed to do so? If she wants to refuse to serve certain people, why shouldn't she be allowed to do so, if this is her own private property? This is not a public utility, like a power company that has a franchise and has to serve everybody.

This is a person's own private property. It is not discrimination. It is a choice they make. They choose to serve certain people. Negro restaurants can choose to serve certain people. Does that mean that they are second-rate citizens because somebody doesn't want to serve them? It means they just prefer to cater to a certain clientele, does it not?

Mr. ROOSEVELT. Senator, this is a question of definition. Let me go back to the beauty parlor situation which you mentioned. I assumed you would now say under your terms of reference that if the beauty parlor or barber shop were in a hotel, catering to traveling salesmen, it ought to serve Negroes and whites alike.

Senator THURMOND. No; I don't say that. I say that any man who owns private property should be allowed to sell to or to serve whom he pleases. If he wants to serve Negro people, he ought to be allowed to do it.

The editor of the Richmond News Leader stated a few days ago, in testifying here, that in Richmond there are two restaurants side by side. One is segregated; the other is integrated. You have your choice; you can go to either one you want. They decided that themselves. The restaurant owners determined that. The States didn't do it. The city didn't do it. The owner of the property determined it. Isn't that the best way to do it? Isn't it better to let each owner of a business establishment serve whom he chooses? Who can object to that? Why should anyone object to any person handling his own private business as he sees fit?

Mr. ROOSEVELT. I look upon this from a different point of view. I believe that if a man goes into a business which holds itself out as rendering service to the general public, he has an obligation to serve the general public regardless of whether the individual be a Jew, a Catholic, a Puerto Rican, a Negro, a white, Protestant, or anything else. I think that as long as he is a citizen and comes under the constitutional rights of our country, then in my opinion—this is obviously a difference between us—I believe property rights are secondary to human rights.

Senator THURMOND. Isn't he necessarily serving the general public? Isn't he serving the people he wants to serve?

Mr. ROOSEVELT. Senator, I have said—

Senator THURMOND. Doesn't he have the right to make that choice? Under the Constitution he does have that right according to the last Supreme Court decision on the subject.

Mr. ROOSEVELT. We get now back to Mrs. Murphy. Obviously if Mrs. Murphy runs a boardinghouse for her close friends, and does not hold herself out as a tourist home for transients, and for people traveling, then I would assume that Mrs. Murphy did not have an important impact on interstate commerce. Therefore Mrs. Murphy would be running a purely local facility not open to the general public but open to only a limited number of boarders.

And then I would say that she would not be covered by this legislation, nor would she have any impact on the traveling Negro because he couldn't get in anyway. There wouldn't be room because the boarders, the weekly, monthly boarders would probably be occupying all the facilities. These boarders would not be people who were traveling.

Senator THURMOND. Mr. Secretary, on page 20 you state:

Downtown shopping areas are experiencing difficulties. Several of the larger cities in South Carolina are experiencing the same difficulties, but not because of boycotts or sit-in's. In reality, it is because many of the retail establishments are moving to the suburbs and locating in large shopping centers.

Could this be the real cause of the decrease in retail sales downtown?
Mr. ROOSEVELT. Senator, I don't think so. If you will look at the second paragraph of that section:

Retail sales in Birmingham were reported off 30 percent or more during the protest riots in the spring of 1963.

This problem of retail establishments moving out to the suburbs, of course, exists in all big cities. If you go over to the top of page 21, it seems quite clear there that if you compare the Birmingham department store sales during the period of unrest in Birmingham to the department store sales of Atlanta, New Orleans, and Jacksonville, which are comparable cities, in those last three the department store sales went up 7 percent in Atlanta, 10 percent in New Orleans, up 15 percent in Jacksonville, and during the same period in Birmingham from January 1 to May 18, they went down 15 percent.

I would not say that that was entirely due to the move to the suburbs, but was directly attributable to the unrest and to the situation caused by discrimination and segregation, which these demonstrations sought to end.

Senator THURMOND. Mr. Secretary, on page 14 of your statement you said this:

The Legion had originally scheduled its 1963 convention in New Orleans. However, they were informed that the availability of nonsegregated facilities could not be insured in New Orleans. The convention was then shifted to Miami, Fla., where they did receive an assurance of desegregated facilities.

Then on page 21, you state that:

In New Orleans the department store sales were up 7 percent.

How do you reconcile those statements?

Mr. ROOSEVELT. Where is this?

Senator THURMOND. On page 14 you referred to the Legion convention shifting from New Orleans to Miami and claimed that it hurts business when this alleged discrimination exists. And yet in New Orleans, where the alleged discrimination existed, the department store sales were up 7 percent.

Mr. ROOSEVELT. Because during the same period there were not the demonstrations in New Orleans that there were in Birmingham.

I might add, Senator, that the Legion convention, which will be held in September in Miami, is lost business to New Orleans. There is no question about that. And maybe if we compare the Miami department store sales during the month of September to those of New Orleans we will see that the Legion convention had a beneficial effect on department store sales in Miami as against the loss of business in New Orleans.

Senator THURMOND. It hasn't had any serious effect on interstate commerce. It hasn't been a serious burden. They are still planning to hold it, aren't they?

Mr. ROOSEVELT. The Legion convention?

Senator THURMOND. Yes.

Mr. ROOSEVELT. Yes, at the cost of that business to New Orleans. Those hotel owners—

Senator THURMOND. Mr. Secretary, don't these boycotts place a very heavy burden on interstate commerce?

Mr. ROOSEVELT. I suggest, Senator, that they place a heavier burden on the conscience of America.

Senator THURMOND. That is not the question I asked you.

Mr. ROOSEVELT. There is no question that they place a burden on interstate commerce. But they are an outgrowth of a problem which is placing an even greater burden on interstate commerce.

Senator THURMOND. Couldn't Congress then, if it so decided, outlaw the boycotts through its power over interstate commerce?

Mr. ROOSEVELT. I don't believe that the extension of the interstate commerce clause to in effect police action, would be justified.

Senator THURMOND. In other words you are just applying it where you wish to apply it?

Mr. ROOSEVELT. No, sir; I'm not applying it where I wish to apply it. I'm following the precedents of the Congress.

Senator THURMOND. Isn't that what the bill attempts to do?

Mr. ROOSEVELT. I'm following the precedents of the Congress. I think the application of the commerce clause in this situation is far less stretching than is the case in oleomargarine or the other cases that I mentioned.

Senator THURMOND. As a matter of fact, the interstate commerce clause has been stretched until it is completely ridiculous, isn't it?

Mr. ROOSEVELT. No, I don't think so. I think that its extension has been not only wise, but has been adopted in the exercise of the wisdom of the Congress, but it has been upheld by the Supreme Court.

Senator THURMOND. Mr. Secretary, in the middle of page 24—

Mr. ROOSEVELT. I might say, Senator, that I am very flattered that you have studied my testimony so thoroughly.

The middle of page 24, sir?

Senator THURMOND. You state:

Propriety of requiring places of public accommodation to build fire escapes, to keep kitchens clean, and prevent disorderly or immoral conduct on their premises—

Does the National Government require these things? Or are they required by State or city ordinances under their general police powers?

Mr. ROOSEVELT. They are generally required through the licensing power of the States.

Senator THURMOND. There is no authority in the Congress to pass laws along those lines, is there?

Mr. ROOSEVELT. With regard to these particular things?

Senator THURMOND. Yes.

Mr. ROOSEVELT. I believe that the commerce clause might cover these if the States did not. For example, I certainly think that it is in the general interest of the health of the Nation to see that kitchens are kept clean enough so that we don't have an outbreak of ptomaine poisoning.

Senator THURMOND. So you would extend the interstate commerce clause further then, to give the Congress the power to legislate, to require fire escapes to be built, to keep kitchens clean, and to prevent disorderly or immoral conduct on premises, would you not?

Mr. ROOSEVELT. There is no need to extend the commerce clause because in every city and in every State these particular items are covered by local ordinances.

But I might point out also that minimum wages and unemployment insurance in such establishments are covered by Federal statute.

Senator THURMOND. But if a city or State did not have laws or ordinances on the subject, you do think Congress would have the jurisdiction to legislate?

Mr. ROOSEVELT. Yes, I believe that the interstate commerce clause, in the interest of public safety and the Nation's health, certainly would warrant this committee looking into it. I will put it that way.

Senator THURMOND. And you think Congress should legislate if there were no State laws or city ordinances on the subject?

Mr. ROOSEVELT. Senator, I remember in New York City one of the great tragedies in the garment district was a fire in a loft in which several hundred people lost their lives. The Governor at that time was Alfred E. Smith. And that tragedy caused immediate State action to cover fire escapes and fire prevention devices being used in such congested loft buildings.

I would say this, that if that factory was producing goods which were going in interstate commerce, which was actually the case, and if the State of New York had not acted, I believe that it would have been certainly within the jurisdiction of the U.S. Government under the Interstate Commerce Clause to specify that such factories should have adequate fire prevention, fire escapes, and similar devices.

Senator THURMOND. If the State of New York failed to take the steps that it should, then the Congress should step in and take such steps?

Mr. ROOSEVELT. Yes.

Senator THURMOND. Mr. Secretary, is there any facet of any person's life in any way, shape, or form that would not be covered by the interstate commerce clause to specify that such factories should

Mr. ROOSEVELT. Oh, yes, there are lots of facets.

Senator THURMOND. Mr. Secretary, in the next to the last paragraph on page 27 you state, and I quote:

It might also lead to inequities among competitors and to attempts to capitalize upon established exemptions by advertising their existence.

Do you mean by this to indicate that segregated facilities would take away the business of places which are integrated?

Mr. ROOSEVELT. It is quite conceivable, yes.

And in my interpolation at the end of that paragraph, I pointed out that if you have a cutoff which says that a restaurant doing less than a certain amount of dollar volume is exempt from this statute, you might walk down the street and see that a restaurant was advertising the fact that it was exempt. And in some communities unfortunately I'm afraid that it might attract certain members of organizations which are violently for segregation.

That might handicap the business next door which was covered by the act and therefore integrated.

Senator THURMOND. Then Mr. Secretary, according to your answer, isn't integration a burden on interstate commerce?

Mr. ROOSEVELT. No, sir. I believe that if you don't set such benchmarks you will cover everybody, all establishments, and that of course is the ideal, and then no one merchant will be able to take advantage of the prejudice of his community to create a disadvantage for his competitor.

Senator THURMOND. Mr. Secretary, on page 11 of your statement you say:

Some well-to-do individuals with enough money for a midwinter vacation find it far more pleasurable to go abroad than to risk the insults and rejections which they are likely to face in many of the Miami Beach hotels and luxury resorts.

Mr. ROOSEVELT. I change "Miami Beach" to "Florida" because Miami Beach now operates under the Dallas plan. I'm sure you are familiar with the Dallas plan.

Senator THURMOND. I was just wondering if you were still of the opinion that the situation was the same there.

Mr. ROOSEVELT. Of course under the Dallas plan, conventions such as the American Legion assured the Negro delegates to that convention of equal facilities during the period of that convention.

I don't imply, Senator, that I approve of the Dallas plan. I might simply explain why I don't want to imply that. It seems incredible to me that a Legionnaire might go to Miami and while he was there as a member of the Legion convention get equal facilities, and yet he might want to come back with his wife and children at Christmastime and then find that as an individual the Dallas plan didn't cover him and he couldn't go to the same hotel he had stayed at as a member of the Legion convention.

Senator THURMOND. I was going to ask you then if he would find it more pleasurable to go abroad than to risk the insults and rejections which he might face in some Miami Beach hotels, then why did the American Legion change its location and go to Miami Beach?

Mr. ROOSEVELT. Because under the Dallas plan the Negro Legionnaire will have equal facilities, which he would not have had in New Orleans. But come Christmastime, when he wants to take his family on a vacation, assuming he has enough money for another trip to Florida, he could not go to Miami Beach under the Dallas plan, which is in effect; he would probably go to one of the British West Indies where he will be given equal treatment.

Senator THURMOND. Mr. Secretary, in closing, don't you feel, down in your heart, if you really believe in the Constitution, that a man has a right to operate his business in a way that he sees fit, to close it any hour he wants to, and under your theory that you have enunciated here today, if he is forced to take anybody he wants to, will not that lead eventually to the Government fixing the price that he can charge, the other accommodations he will have to provide in such facility, and various other items that could arise in connection with the operation of such a business?

Mr. ROOSEVELT. Senator, I don't believe in scarecrows, and I think I have made my position clear, that I think that human rights come before property rights in the case of public accommodations.

Senator THURMOND. Can you have any human rights when you destroy property rights?

Mr. ROOSEVELT. I don't believe that we are destroying property rights. In fact, I think I tried to make clear that we are strengthening the private property rights.

As far as fixing prices, only in time of war have we ever done that, and this bill does not in any way contemplate fixing prices.

Senator THURMOND. Isn't that one of the chief policies that has been followed by the Communists when they take over, is to destroy prop-

erty rights, and that eventually leads to the destruction of human rights?

Mr. ROOSEVELT. Now, Senator, if you are trying to imply that because I support this legislation, I am on the verge of becoming a Communist, I think——

Senator THURMOND. I haven't said any such thing, and don't impugn and don't try to say I have said it.

You answer the question I asked.

Mr. ROOSEVELT. I'm perfectly willing to answer the questions and to point out that there is nothing communistic——

Senator THURMOND. I will have it read back to you if you wish it read back. I am not impugned any such thing. I'm amazed that you would insinuate that.

Mr. ROOSEVELT. I was perhaps reading your insinuation incorrectly and I'm glad to find that I was.

But I would like to point out that there is nothing in this bill which remotely approaches the Communist form of government. And to bring up a question as to whether the first thing the Communists do is to destroy property rights makes the Communist system comparable to this legislation—is to me stretching almost to the point of ridicule the purposes of this legislation.

Senator THURMOND. It does deprive people of using their property as they see fit.

Mr. ROOSEVELT. So did Hitler.

Senator THURMOND. Whether the Government owns the property or an individual owns the property, if the Government is going to prescribe the control and use of the property, what difference does it make who owns it, or who has the titular title to it?

Mr. ROOSEVELT. Let me point out this: This does not take away property; it simply opens up the property. The Communists take away property. Hitler took away property. They did not open up the property. This opens up the operation for the businessman to share a broader market.

In my humble opinion this is in the interests of the U.S. economy as a whole. It is in the interests of the private businessman as an individual. And it enhances his private property rights rather than depriving him of those rights.

Senator THURMOND. And my last question: You do not think that deprivation of the use of property is a destruction of freedom?

Mr. ROOSEVELT. This does not deprive the individual property owner of his property. It simply requires that if he is going to hold himself out as giving service to the general public, that he give it to all the public, all citizens equally. That is all.

Senator THURMOND. Thank you.

Mr. ROOSEVELT. It doesn't deprive him of his property one iota, one bit.

Senator THURMOND. That is all.

Thank you, Mr. Secretary.

Mr. ROOSEVELT. Thank you, Senator.

Senator PASTORE. The Chair recognizes the Senator from Pennsylvania.

Senator SCOTT. Mr. Secretary, I want to congratulate you upon the statement you have given, which is informative, helpful, and persuasive.

I note in your last paragraph that you speak of having compiled this information for the committee's general guidance, and that you will be glad to assist us further.

Along those lines, I am wondering if you could help us by supplying information as to the present purchasing power of Negro citizens in the United States in relation to the total purchasing power, and then your statements based upon information of the Commerce Department as to the economic potential of the Negro citizens as it would be affected by this bill.

Mr. ROOSEVELT. Senator, that is a very good question. If you will let me consult with my economist friends for a second.

Senator SCOTT. Certainly.

Mr. ROOSEVELT. Dr. Brimmer, who is Deputy Assistant Secretary of Commerce for Economic Affairs, has done research on this problem. He tells me that personal income of the Negro community today is \$21 billion, which is 6 percent of the total personal income of all American citizens.

If this bill is adopted, it is our estimate that this personal income of \$21 billion may increase as much as \$9 to \$12 billion, or reach a total of \$30 to \$32 billion.

Senator SCOTT. It would be what percent of the whole?

Mr. ROOSEVELT. That would be about 11 percent of the whole, 10 to 11 percent of the whole; a little less.

Dr. Brimmer tells me I was a little exaggerating on the percentage. He says that these figures are a little funny. I don't know quite what he means by that economic terminology.

Senator PASTORE. Why not have the doctor explain it and explain equally as well what he means by this increment if that becomes law; how does that operate? Give us an example.

Mr. ROOSEVELT. I will be glad to turn the microphone over to Dr. Brimmer.

Dr. BRIMMER. Thank you very much.

The Secretary was commenting on some figures which I got from two sources. I asked the Census Bureau in our Department to give me an estimate of the personal income of the Negro community. They gave it to me for 3 years: 1949, 1959, and 1962.

They told me that in 1949 the personal income of the Negro community was \$7.7 billion. That amounted to about 5 percent of the personal income. In 1959, it was \$17 billion or 5.8 percent of the total.

In 1962 the Census Bureau's estimate placed the personal income of the Negro community at \$21 billion. That amounted to about 6 percent of total personal income.

I then asked the Council of Economic Advisers to give me a study they made about a year ago in which they tried to answer this question. If we remove the burden of discrimination not only in public accommodations but in employment and in education as well, it was the Council's estimate that the national income, gross national product in this case, would rise by about \$13 to \$17 billion. They advanced these figures with some reservation because this is an extremely difficult thing to measure; the figures are rough estimates based on the Council's best judgment.

We know that all of the gross national product is not personal income. So I made an estimate of the proportion of the increase in gross

national product that would be personal income. I estimated that to be the \$9 to \$13 billion which the Secretary mentioned.

So let us take the lower figure. Take the \$9 billion plus the \$21 billion, and this will give you a conservative estimate of around \$30 billion.

I have a note on that particular computation, and I would be glad to give it to the Secretary for his transmission to the committee if they choose.

Senator PASTORE. It isn't this bill alone that would account for the increment.

Dr. BRIMMER. No.

Senator PASTORE. You are including all of the civil rights legislation?

Dr. BRIMMER. All of the civil rights legislation.

Senator PASTORE. Greater opportunity of employment?

Dr. BRIMMER. Yes, sir.

Mr. ROOSEVELT. And education.

Senator PASTORE. And education as well, which will raise the level and fit these people for higher income.

Mr. ROOSEVELT. Right. I might say that training is, of course, a very vital part of the educational picture. The unskilled labor in the Negro group runs about twice as high as the comparable unskilled group percentage-wise among whites.

Senator SCOTT. I am glad that the chairman has brought that out, because the framework of my question was limited to this bill. But I see now that that would be almost impossible to estimate. So it actually refers to the whole package of civil rights legislation.

Mr. ROOSEVELT. Yes, sir.

Senator SCOTT. This suggests another question.

Does this bill in your opinion in any way touch the question of possible discrimination in national advertising? In other words, does there exist any policy which would limit advertising directly toward Negroes in magazines or periodicals of national circulation?

I have in mind, for example, publications such as Ebony and Jet, which will give advertisements for products, whatever they may be, toward the largely Negro readership.

I don't know whether national magazines of general circulation, directed toward the people generally in this country, refuse to take advertisements which would reach the Negro market; whether they in fact may be entirely justified even under this bill in so refusing, or whether they are not justified.

Has that question been considered by your Department and your economists; and have you any information on it?

Mr. ROOSEVELT. Dr. Brimmer tells me, and Dr. Holton, that we do have a study now going on of advertising, and of advertising policy to see whether it is aimed at any particular group. That is being carried on now by BDSA—Business and Defense Services Administration—within the Department of Commerce.

When will that be finished, Dr. Brimmer?

A preliminary version has been completed, and we will be glad to submit it only as a preliminary paper.

Senator SCOTT. May I suggest that that be submitted?

Senator PASTORE. Does the Chair hear an objection?

'The Chair hears none. It is so ordered.
(The preliminary report referred to follows:)

ADVERTISING AND THE NEGRO MARKET

It is generally recognized that there is a "Negro market" just as there are identifiable markets composed of members of other ethnic groups or other population classifications based on characteristics such as geographic location, age, income level, etc. The existence of a Negro market for purposes of advertising is evidenced by the existence of a specialized "Negro press" (including magazines and newspapers), the employment of Negro executives by national firms or advertising agencies to direct special selling campaigns, the employment by national firms of Negro salesmen to cover the Negro communities, and radio stations which broadcast primarily to a Negro audience.

Undoubtedly, there are some differences in motivations, buying habits, and expenditures among the members of different races just as there are among the members of other groups within the population however classified. Nevertheless, Negro and white consumers, for the most part, use the same products. Consumer products are sold on the basis of cost, durability, service, convenience, taste, color, style, price, value, pride of ownership, etc. The appeals used in sales promotion and advertising to establish consumer acceptability and demand are fundamental regardless of race or other population characteristics. In general, except in the case of specialized media or a few specialized products, the basic advertising appeals designed to reach the total market or the Negro market are similar.

Among the advertisers of products sold on a national basis there is a considerable difference of opinion as to how best to approach the Negro consumer and to what extent advertising appeals should be differentiated for this purpose. There are available two primary avenues of approach for national advertisers seeking to expand their sales among Negro consumers: specialized publications and sales promotions, and general media.

SPECIALIZED PUBLICATIONS AND SALES PROMOTIONS

This approach utilizes advertising media or sales techniques which are directed solely or primarily to the Negro market. This includes advertisements in national periodicals such as *Ebony* and *Jet*, Negro newspapers, spot advertisements on Negro radio stations, the employment of Negro salesmen to serve predominantly Negro communities, and the utilization of Negro personnel in connection with the development of special promotions and similar activities.

Arguments in favor of this approach are as numerous as those opposed to it. Those who favor a Negro-oriented type of advertising contend that this is the only way Negroes can "identify" themselves with the product. They argue that Negroes cannot really convince themselves that the product offered via white media is "for them." For example, an advertisement in a general publication by an exclusive hotel might be ignored by the Negro in the belief that it was intended only for the white audience, whereas if the identical advertisement appeared in a Negro media, it would be quite clear to the reader or listener that it was meant for him.

Opposed to this position are those who insist that products advertised through Negro media miss the middle and higher income groups who read this media less than the lower income group. This, they hold, is especially true in the case of the Negro radio stations which may be compared to other broadcast stations that play predominantly hillbilly and rock-and-roll music for the less sophisticated audience. The national Negro newspapers and magazines, nevertheless, appear to offer the advertiser a very worthwhile media. The argument against advertising through Negro media on the grounds of nonproportional returns is not fully justified by the favorable results evidenced by companies who do use these media.

GENERAL MEDIA

The second approach to the Negro market is through general media directed toward the general public. Advertisers using this approach may depend on general appeals to reach Negro as well as white consumers, or may consciously attempt to insure that illustrations and text adequately provide that Negro readers will feel that the message is directed to them, as well as to white readers. Conceivably an advertiser might use general media for an appeal directed pri-

marily to the Negro market, but this would be extremely unlikely, since this market represents only about 10 percent of the population and is geographically concentrated. This conclusion is strengthened by an examination of figures indicating the penetration by race of major national magazines.

The 1961 Starch readership study (see attached table) indicates that the percentage of Negro readership of major general magazines is far below the 10 percent of population represented, averaging only about 3 percent and seldom as high as 5 percent. This is in direct contrast with *Ebony* which has a Negro readership of more than 85 percent.

For the general media most advertisers and advertising agencies appear to be in favor of a casual or general approach aimed at both Negro and white, which, they argue, offends no race. Though they admit that this approach does not go out of its way to "sell" the Negro, neither does it offend him. Such an approach, they hope, will sufficiently influence both racial groups in a favorable manner.

DISCRIMINATION BY ADVERTISING MEDIA

Discrimination against specifically Negro-oriented advertising in general national media could come logically from one of two sources, either the media or the advertiser.

"Discrimination" on the part of the advertiser could only be defined as ignoring the Negro market by making no specific attempt to make the Negro aware that the particular product or service is available and intended for him as well as for the white consumer. This, however, is not discrimination, since it is the policy of many companies, for the reasons outlined above, to make no such special attempt to reach the Negro, feeling that he may be best reached through general advertising appeals.

Discrimination on the part of national media, if it existed, would most likely be in the form of refusing to accept Negro-oriented advertisements or advertisements including Negro models alone or in group scenes.

There is no evidence of discrimination of this type, nor is there any evidence of complaints by Negro groups in this connection. On the other hand, there is an increasing tendency toward the use of Negro models, especially in group illustrations. Many national magazines are reported to welcome such illustrations because it gives them greater rapport with the Negro people.

In the case of specialized media directed toward largely Negro readership, illustrations generally include Negro models primarily. In the case of media directed to the general public, illustrations generally include white models predominantly. In both cases this reflects the preponderance of the readership as classified by race. (See attached table.)

Some national advertisers may use the same copy and text in both specialized and general media, utilizing Negro models in specialized media and white models in general media. There are, however, exceptions in both cases.

Recently an "integrated" advertisement by a well-known brewer which showed a mixed white and Negro group on a Bermuda beach drew indignant reactions from Negroes, some of whom regarded it as solicitous. More important, however, may have been the fact that it was used only in *Ebony* and that most Bermuda beaches are segregated.

On the other hand, some advertisers have recently been using integrated illustrations in advertisements utilizing such ads in all media. Examples of this approach are advertisements of a national brewer in connection with the annual three-ring charity golf tournament in which identical advertisements were used in both *Ebony* and general national media and the integrated group scenes often used in advertising such products as soft drinks and airline travel.

Another example of an imaginative policy for utilizing all-purpose advertising for use in all media is the recent highly successful program of a trust company in promoting its check sets. In this instance, Diabann Carroll was used as a high-fashion model in commercials dramatizing the new check sets as accessories. Similarly, one metropolitan telephone company has recently used a general telephone advertisement showing a Negro businessman with an attaché case making a telephone call. This has apparently been fully accepted wherever used.

SELECTION OF RADIO AND TELEVISION TALENT

On June 7, 1963, the American Federation of Television & Radio Artists and major elements of the broadcasting, advertising, and recording industries issued a joint statement of policy designed to continue and strengthen implementation of their longstanding policy against discrimination in the employment of talent.

The policy statement arrived at by representatives of the American Federation of Television & Radio Artists and representatives of the industry in a series of meetings was as follows:

"The American Federation of Television & Radio Artists, the employers, producers, networks, stations, advertising agencies, independent packagers, transcription companies, phonograph recording companies, agents, managers, impresarios, and others are in agreement that the following policies and procedures will be continued and strengthened in the future.

"1. Discrimination shall not be practiced against any performer, or any applicant for employment as a performer because of race, creed, color, or national origin (a) in admission to membership in AFTRA together with all the rights and privileges of full membership in AFTRA as established in the AFTRA constitution, (b) in the publicizing of auditions and interviews, (c) in calling or requesting the appearance of performers for auditions or interviews, (d) in the hiring of performers, in the discharge or replacement of performers, (e) in the staging of a production, or (f) in any other dealings with or treatment of performers.

"2. To word casting notices in such a way as not to discourage minority group members from inquiring, applying, or auditioning.

"3. When conducting interviews or auditions for casting purposes, representation by an agent or other performers' representatives shall not be a requirement for an audition.

"4. To the extent that any producer keeps files of performers' names, pictures, résumés, etc., there will be no discrimination in the keeping of such files on account of race, color, creed, or national origin.

"5. To instruct all casting agents and performers' representatives to refer performers without regard to race, creed, or national origin.

"6. To select applicants for audition, interview and employment, and employ performers on the basis of ability without regard to race, color, creed, or national origin, subject to bona fide job qualifications and requirements.

"7. To take affirmative steps toward the end that minority group performers are cast in all types of roles so that the American scene may be portrayed realistically.

"The signatories to this statement of policy are AFTRA, the employers, producers, networks, stations, independent packagers, transcription companies, phonograph-recording companies, agents, managers, impresarios, and others. Furthermore, the policy statement has been reviewed and agreed to by a committee representing advertisers and agencies employing and using talent in television and radio.

"It was also announced that a joint industry-AFTRA committee will be established to administer the policies and procedures set forth in the statement."

EMPLOYMENT OF NEGROES FOR SPECIAL ADVERTISING CAMPAIGNS AND PROMOTIONS

Recently a third approach in promoting sales to the Negro market has been developed by a number of leading national firms, and has gone a long way in helping such firms successfully gain an increasing share of the market.

Basically this "new" approach involves hiring and training Negro personnel for both sales and public relations work. In many instances sales efforts are tied in with efforts to build community relations with noncontroversial organizations such as churches, fraternal societies, or charitable organizations.

This technique is apparently being used with considerable success. For several years now the soft drink, alcoholic beverage, and tobacco industries have utilized competent Negro salesmen, not only to sell their product, but also to build good will in the Negro community. One soft drink manufacturer, after installing a Negro as one of its vice presidents, experienced skyrocketing sales in the Negro areas. Car dealers, brewing companies, oil companies, tobacco companies, and many others have begun to hire qualified Negro personnel in responsible positions, not only to boost sales, but also to build long-lasting good will with the Negro population.

Advertising agencies in search of greater sales to the Negro have begun to use imaginative techniques. One tobacco company features free showings of a documentary film on the achievements of the American Negro. This they couple with extensive point-of-sale advertising featuring Negro personalities.

One large liquor firm distributes a calendar emphasizing important dates in Negro history.

Firms which advocate general advertising aimed at both Negro and white consumers often couple their advertising with special marketing appeals and public relations efforts, such as the sponsoring of Negro charity balls, or plant tours, or contributing to Negro charities.

Even those who argue that the Negro can effectively be reached through the general media without any special advertising, agree that the quickest way to sell to the Negro is to take a special interest in him. Eventually, they feel, the Negro will become completely integrated in the general market and a special approach will no longer be needed.

*Percent of readership of major magazines of national circulation
(classified by race)*

	Negro	White	Circulation
American Weekly.....	8.1	91.9	9,228,606
Better Homes and Gardens.....	2.2	97.8	4,666,971
Cosmopolitan.....	3.0	97.0	800,700
Ebony.....	95.1	4.9	538,616
Family Weekly.....	6.2	93.8	4,640,258
Good Housekeeping.....	3.1	96.9	7,200,900
House & Garden.....	1.8	98.2	600,803
Ladies' Home Journal.....	1.6	98.4	3,367,984
Life.....	4.4	95.6	8,792,107
Look.....	4.1	95.9	8,444,667
McCall's magazine.....	2.7	97.3	3,170,315
Nation's Business.....	2.6	97.4	760,987
Newsweek.....	1.7	98.3	1,281,835
New Yorker.....	1.7	98.3	889,016
Parade.....	10.1	89.9	9,460,146
Reader's Digest.....	2.5	97.5	11,833,324
Redbook.....	1.2	98.8	2,844,423
Saturday Evening Post.....	1.6	98.4	8,550,136
Sports Illustrated.....	4.1	95.9	828,559
Sunday.....	3.8	96.2	15,265,235
This Week.....	3.2	96.8	12,896,286
Time.....	3.8	96.2	2,855,044
TV Guide.....	4.1	95.9	6,655,623

Source: Daniel Starch & Associates, readership survey, 1961.

Senator SCOTT. What I am attempting to find out is whether there exists any degree of consistency or hypocrisy anywhere in our communications media which leads them to report fully on the civil rights issue, and one would hope on all sides of this, objectively. But after so reporting, I would be curious to know whether they would refuse or find devices to avoid taking advertisements which would appeal to the particular segments of the population.

Mr. ROOSEVELT. We will be glad to study that. Of course, Senator, I might say that this study will not attempt to correlate either the editorial policy or the actual news stories to see whether they—

Senator SCOTT. I understand that. I am simply trying to find out whether there exists such a pattern. We citizens are to a great degree dependent upon what we read in newspapers and magazines. It is most unusual for a newspaper or magazine to report the policies of management which would reflect some discredit or provoke some criticism of them. As a matter of fact you never hear a professional man get up and say something in derogation of his profession, as a rule.

And you wouldn't expect a communications media to turn an inward eye upon themselves, save rarely. That is why I wondered what such a study will reveal. There might be something hidden in the woodwork to which we are entitled to know. I don't mean this as

criticism of magazines or newspapers, but I once wrote a book on how to go into politics. The essence of one chapter was never quarrel with the press or the clergy, because if you quarrel with the press they will get you either in the headlines or in the editor's postscript; if you quarrel with the clergy, they have a higher court to appeal to than we do. So that—

Mr. ROOSEVELT. It seems to me I remember a certain President who didn't always agree with the music critics. So I tend to agree with you, Senator, that these two elements politicians should not quarrel with. But I would like to say in passing, if the committee doesn't mind my taking the time, I wish you would send me that book. I would like to know how to go into politics. [Laughter.]

Senator SCOTT. I would like to add, parenthetically, that I was once told by a Senator of the other party that the party's original interest in national politics came from my book. I don't want to stir up more trouble.

Mr. ROOSEVELT. We Democrats are always willing to learn from the Republicans.

Senator SCOTT. That in itself brings up this next question.

Senator PASTORE. I am waiting. [Laughter.]

Senator SCOTT. Mr. Chairman, you do well to wait, because I am sure that you will find it almost impossible to avoid comment on the next series.

I do congratulate you for having stated that you feel that this legislation should not be voted on as a political matter. I would, with some deference, suggest that to keep this nonpartisan, nonpolitical, it would be most helpful if the administration would be careful to recognize the efforts of the Members of Congress of both parties, as I have not yet heard any testimony or seen any administration statements which recognize the long-existing efforts on the part of Members of my party in both Houses to secure not only this civil rights legislation but legislation in some cases which would go beyond it. I myself have been advocating this legislation now for 21 years, various forms of it. I do think with a little more generosity on the part of the administration, in other words, the frequent statements referred to by Senator Cotton that the support of the Members of my party is indeed important and essential, that this support might be aided by a little more generosity, a little more willingness to recognize that indeed there are many people, such as Senator Prouty, if he doesn't mind my saying that, such as Members of my party on this side of the committee, and we would like to see more of that.

You are well known for your persuasive talents, and I would suggest that it could be helpful if you would pass the word.

Mr. ROOSEVELT. Senator, I know that I can speak for the administration in saying that we welcome your support and Senator Cotton's support, and that of many other Members of your party, both in the Senate and in the House, of this particular legislation. But now, speaking for myself personally, I am a bit confused by the introduction of the bill by the minority leader of the Senate, Senator Dirksen. In the first instance he eliminates from the package legislation the section dealing with public accommodations; then he replaces, by an amendment to this bill, the proposal for public accommodations and substitutes for it, as I read his proposal, what is really a voluntary

program. I would say it is a watering down of the principles which you have so eloquently just expressed.

I would pass your word on to the leader of my party in the administration, the President, but I would also like you to pass on to your minority leader a suggestion that perhaps he withdraw his amendment and his bill and come out flatfootedly in support of this legislation, as I understand you and Senator Cotton have.

Senator SCOTT. Mr. Secretary, I think it is first obvious that I do not support the Mansfield-Dirksen bill. I have read so much in the paper about this being the bill of Senator Dirksen, and so little in the paper about this bill having been introduced by the leader of the Democratic Party in the Senate, and having been joined in, with appropriate rhetoric, by the minority leader, and I wish to make it quite clear that I think it is unfortunate that the leader of the Democratic Party and the leader of the Republic Party would join in such a bill. And I know this would not be their intention, to create an impression that the administration supported it and members of the loyal opposition have joined in an attempt to prevent a comprehensive and desirable piece of civil rights legislation. I am not criticizing either one of them. They have the right to do whatever they want. But I wish that in referring to this legislation the press would be good enough to take notice—and I say it again in loud and clear tones—that the press would be good enough to take notice and to repeat in the areas where it will do some good, that this is the Mansfield-Dirksen bill.

Mr. ROOSEVELT. I had hoped that you had forgotten the joint sponsorship of that bill, but knowing you as I do, that was a forlorn hope.

I would like to commend the press on their negligence in pointing out this unfortunate situation. [Laughter.]

Senator SCOTT. I speak as a member of a minority group, as you well understand. And as a group occasionally subject to persecution and oppression.

As a member of this group dedicated to the overthrow of the Government as we are—

Mr. ROOSEVELT. By peaceful means.

Senator SCOTT. By peaceful means, I do hope we can get some better coverage of that.

I thank you very much, Mr. Secretary. I would like to address two statements to the committee, to the chairman of the committee.

First, to underscore what Senator Cotton has said, that we are a committee which suddenly finds ourselves attempting to handle all of the legislation now seriously pending before the Congress of the United States, to wit, the civil rights bill and the railroad strike. And I don't see, as able as the members of this committee are, how we are going to be able to solve all the Nation's current problems unless we can at least have a little meeting and try to work out some situation regarding the time, and so forth. The chairman has very kindly agreed to hold such a meeting.

Secondly, I would like to address this question to the committee and to the Chair: I would like them to recall either Governor Barnett or Governor Wallace, or any other Governor who so voted at the Governors' Conference, to explain why the Governors abolished the resolutions committee in order to avoid the passage of any resolution on civil

rights, having in mind that the President urged the civil rights declaration on the mayors of this country at Honolulu.

I am not aware that any similar concern has been expressed on a civil rights declaration by the Governor's conference at Miami Beach. I wonder why the mayors are regarded as more important than the Governors as opinion makers in this country. I would ask that some Governor who so voted be requested to appear, and I will settle for any old Governor, Mr. Chairman, who will come up.

Senator PASTORE. With due deference to my good friend—

Senator SCOTT. I assure you it is political, but I assure you it is political in the high sense of the word. If the Governors of this country are going to duck, run, and scatter in the face of civil rights legislation and their own responsibilities, let's find out. Let's ask them.

Senator PASTORE. Well, I don't know if my good friend from Pennsylvania has been a Governor. Am I right or wrong?

Senator SCOTT. I thank heaven that I have not been a Governor, for the good of the people of my State.

Senator PASTORE. I think that we as a committee have a definite responsibility to the President of the United States, who has recommended, on behalf of his administration, this legislation. We have had the highest level representatives come here and not only endorse it but urge upon this committee its passage. We are proficient enough in our own right. We have the availability, we have the authority, we have the jurisdiction to inquire into matters. I don't think we can fuss around to find out how Governors feel in order to do our own duty. I think our duty is clear and I think we can assume it.

On this question of whether or not the President of the United States should address himself to the Governors, maybe he thought that after he did it with the mayors he would leave that up to Mr. Rockefeller to see how successful he would be.

Senator SCOTT. Now you have really gotten political.

Senator PASTORE. I intended to be. I mean if we are all going to begin making whistle-stop speeches here I don't think we will ever get to the bill.

Senator SCOTT. I am glad to see that politics is a two-headed monster.

I renew my request to the full committee that they give serious consideration to my own request that some Governor who voted as I have referred to, to abolish the resolutions committees and evade action on civil rights, be invited to appear. Again I say I will settle for any old Governor you can get—old or young. I didn't mean it in that sense.

Senator PASTORE. If the Senator will make his motion in executive session, the committee will entertain it.

Senator HART. Mr. Chairman, could I intrude with a statistic? If the press is going to carry Senator Scott's petition for an accurate report, they might also include, because we do want to pay tribute where it is due: We are grateful that 8 Republicans, less than a quarter of the membership, sponsored the package bill, and I am proud that of the 37 Democrats more than half were on the bill. Those are cold facts.

I think those of us who really believe the time has come when we have to produce a bill here serve our own cause poorly by this bickering. I think we will serve the cause of the Senator from South Carolina by doing it, not our own.

Senator THURMOND. That is a very worthy cause you are asserting there.

Senator HART. Those are the statistics.

Senator SCOTT. I would say the Senator from Michigan is entitled to his own opinion obviously. He is entitled to serve any cause he wishes. He is not entitled to impute that any other Senator serves any other cause than that for which he was elected.

I would say if we are going into statistics the record should also show that the Civil Rights Act of 1957, so far as I recall, and in the Civil Rights Act of 1960, no Republican voted against the civil rights acts. This compares to the statement as to the eight. I rather think more of the majority of the Republicans in the Senate will support this civil rights legislation, if it is reported, by the majority party having control of the committee and having control of the Senate.

Senator PASTORE. Gentlemen, don't you see what you are doing? Don't you really see what you are doing? As reasonable men we have a responsibility here; we have all the tools at our disposal. Let's get on with the job and meet our own responsibilities.

Are there any further questions from this witness?

Senator PROUTY?

Senator PROUTY. I have no questions.

Senator PASTORE. Any further questions?

Senator HART. Mr. Chairman, I haven't any questions. I was able to be here all morning and I listened to the Secretary, as most of us did, and I listened to the exchange with Senator Thurmond.

I want once again, if I can, to help nail down this business about us making a whipping boy of the South. This just isn't true. As a northerner I know perfectly well and publicly have acknowledged that discrimination exists all over. I have tried to suggest that in the North it was sort of a sophisticated kind. It was a person-to-person thing, unlike the hard-nosed discrimination of the South. I admit I wasn't sure which was the more offensive to the person discriminated against. The point that we ought to understand is that as a matter of public policy in the North we say it is wrong; and we don't trot around with a bunch of statistics to prove that it is good. But admittedly this is a problem that affects all corners of this Nation, and that heightens the urgency of responsible conduct by this committee.

Parenthetically I don't think anybody in this room feels that the Secretary has to make a trip to find out whether there is a problem. Nobody has pointed the finger any place, except at all of us. Nobody is being fooled by it.

Mr. ROOSEVELT. May I just say, Senator, that I wholeheartedly agree with everything you have said, and I tried to emphasize in not only my prepared text but also my answers to various members of the committee that I concur with you that this is not a regional or local problem. It occurs in every corner of our Nation.

I referred to some specific situations in my own State, specific situations involving discrimination, of which I am very unhappy.

I think that the uncertainty with which a Negro undertakes to go around the corner and get a milkshake, whether he will be welcome or whether he will be thrown out of that eating facility, that uncertainty exists in his heart whether he lives in New York City or he lives in Birmingham, Ala. And it is this uncertainty that this bill aims to remove.

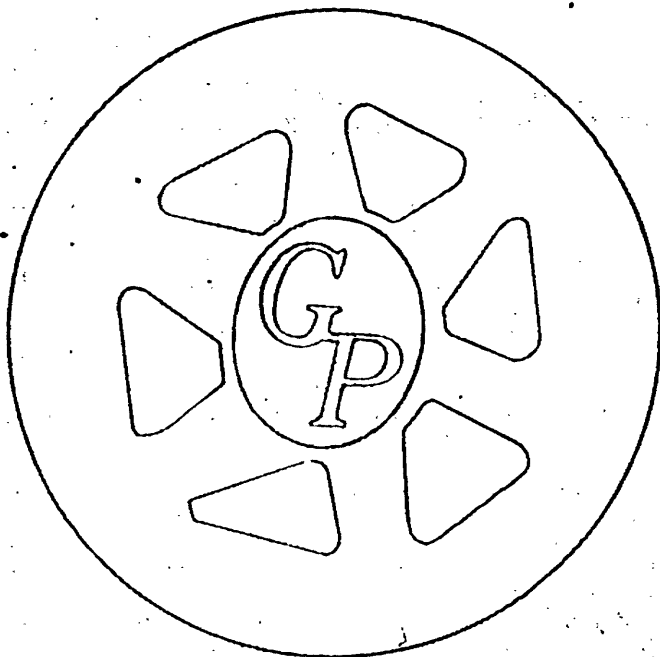
Senator PASTORE. Are there any further questions?

(No response).

Senator PASTORE. It is now 12 o'clock. We will recess on civil rights until 9:15 tomorrow morning in this room.

We will hold an executive session of the members of this committee in room 5112 to discuss the matter of the procedure with reference to the legislation that was referred to this committee yesterday, with reference to the broadening of the powers of the Interstate Commerce Commission. In this room at 2 o'clock we will commence the hearings by having before us Secretary Wirtz.

(At 12 noon the committee adjourned.)



CIVIL RIGHTS—PUBLIC ACCOMMODATIONS

WEDNESDAY, JULY 24, 1963

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee reconvened at 9:20 a.m. in room 318 (caucus room), Old Senate Office Building, Hon. A. S. Mike Monroney presiding.

Senator MONRONEY. The Commerce Committee will come to order.

We are honored today to have the distinguished dean of Harvard University Law School and the Chairman of the Civil Rights Commission, the Honorable Erwin N. Griswold as our witness. This committee appreciates deeply your coming down here and interrupting your busy schedule. We would be most delighted to have you proceed in your own way.

STATEMENT OF ERWIN N. GRISWOLD, COMMISSIONER, CIVIL RIGHTS COMMISSION, AND DEAN OF HARVARD UNIVERSITY LAW SCHOOL

Mr. GRISWOLD. Mr. Chairman and members of the committee, I believe the chairman introduced me as Chairman of the Civil Rights Committee, which I cannot claim to be, as Mr. Hannan is the Chairman. I am the junior member of the Committee. But I do appear as a member of the Committee, and after consideration by all the members of the Committee, and with the unanimous authority of the Committee to speak for them.

The public accommodations bill you are now considering is clearly the most important part of any program for protecting the civil rights of American citizens and indeed, in my judgment, the most important issue facing this Congress.

Its importance lies in the fact that the continued denial to one group of American citizens of access to restaurants, hotels, and other places of public accommodation has plunged many communities in our Nation into turmoil and has challenged our ability to govern ourselves through the peaceful and orderly processes of law. But there is an even greater meaning to your deliberations. The courts of our Nation have established beyond any doubt that all citizens are entitled to equal treatment at the hands of Government. This matter is settled, although we are having great difficulties in translating this legal principle into practice. There remains, however, the issue of the right of citizens to equal treatment in their public dealings with other important segments of society. This is the principle to which Congress is addressing itself in the public accommodations bill. It goes to the

heart of the matter—the dignity of each individual and his right to decent and equitable treatment at the hands of society.

It is clear that the denial of access to public places is a problem of national, rather than regional or sectional dimensions. This is reflected in the accounts of our advisory committees to the Civil Rights Commission throughout the country of their own difficulties in conducting business in segregated communities. Last year, for example, our Nevada committee reported that when the committee held a public meeting in Hawthorne, its members along with a representative of the Governor of Nevada, were refused service at the city's leading restaurant because of the racial composition of the group. Two weeks ago, our Louisiana committee reported a similar incident in connection with a public meeting it was holding in New Orleans. The Commission itself, in conducting hearings and other Government business throughout the Nation, has found on more than one occasion that the only facilities which could be secured on an unsegregated basis were those available at military installations.

If these are the minor tribulations of Government officials trying to conduct their business, how much more devastating is the impact of racial discrimination on the daily lives of Negro citizens. The average white person takes for granted the recreational, cultural, and entertainment offerings of his community—the restaurants, department stores, theaters, concert halls, sports arenas, bowling alleys, and skating rinks. But the Negro in a segregated city is entirely excluded from the mainstream of community life; he must build his own minority society or have none at all. For the white man traveling from State to State, the road is a series of familiar landmarks and frequently his most difficult problem is to make a choice among the array of establishments offering him food, lodging, and respite. But for the Negro traveler, the road may be more like a desert and each inviting sign a mirage or, worse yet, a humiliating rebuff to him, his family, or companions.

The problem can also be seen in the plight of the Negro who is a member of the Armed Forces. He travels wherever ordered to serve his country—but once there he may be excluded from the surrounding community and virtually restricted to the base. This has created a delicate problem for one Air Force installation in Alabama which trains foreign nationals as well as Americans. The military authorities have solved it by issuing "passports" to colored foreigners to enable them to travel unmolested in the community. For the American serviceman, to our shame, neither his uniform nor his birthright is enough.

The existence of this kind of situation should be of vital concern to the government of a democracy whether or not it gives rise to protests and demonstrations. In my judgment, Congress has authority under the Constitution to provide a complete remedy for the discriminatory denial of access to places of public accommodations. This power can be exercised pursuant to the commerce clause, the 14th amendment or a combination of both provisions, and I might add other provisions of the Constitution.

First, as to the commerce clause, there is no question that acts of racial discrimination which affect interstate commerce are an appropriate subject for regulation. Congress has in fact prohibited

certain acts of racial discrimination in passing the Aviation and Interstate Commerce Acts. It has, for example, forbidden restaurants which are an integral part of interstate bus transportation to discriminate against customers on the basis of race. Even in the absence of statute, the Supreme Court has held that racial discrimination constitutes a burden upon interstate commerce in violation of the Constitution.

Since Congress and the courts have already dealt with discrimination under the commerce power, it is not necessary to reason from analogy to prove that the legislation before you would be an appropriate exercise of authority under article I, section 8. But if analogies were needed, they are plentiful. The Government has regulated the businessman in his dealings with customers and the public as well as with his employees and other businessmen and employers. Congress in exercising the commerce power has sought to protect the public from impure food, drugs and water, from unsafe appliances, from criminal or immoral acts, from price fixing, and other restraints of trade. In doing so, it has prescribed the shape of oleomargarine served in restaurants and the labeling of bottles of aspirin in drug-stores. Surely, then, we are not dealing with an exercise of authority which in any respect would be unique or peculiar in its application.

It is equally clear that when Congress is dealing with a subject appropriate for legislation it has plenary authority to achieve its objectives. Congressional authority is not limited to the regulation of commerce among the States. It extends, as the Supreme Court said in *United States v. Darby*:

to those activities intrastate which so affect interstate commerce or the exercise of power of the Congress over it as to make regulation of them appropriate means to the attainment of a legitimate end, the exercise of the granted power of Congress to regulate interstate commerce.

In practice this has meant the regulation of intrastate transactions when they are—

so comingled with or related to interstate commerce that all must be regulated if interstate commerce is to be effectively controlled.

It has meant that amusement activities such as motion pictures, professional boxing, and football are subject to the antitrust laws even though the showing or exhibition is a local affair; that employees of a window cleaning company may be covered by fair labor standards if the greater part of their work is done on the windows of industrial plants of producers of goods in interstate commerce; that agricultural production quotas may be applied to wheat grown by a farmer only for his own consumption where it is determined that price is affected by the whole supply and not merely the quantity offered for sale.

In the United States of 1963, it does not require any fiction to see the relationship of places of public accommodation to interstate commerce. In 1961, commercial airlines flew more than 18 billion revenue passenger miles in the Nation during the first half of the year. More than 350 million passengers traveled on the 218,000 miles of railroad routes in 1958. Intercity buslines in 1959 carried 170 million passengers over 208,000 miles of route. The 41,000-mile Interstate Highway System, which reaches into every corner of the land, crosses the boundaries of 673 cities and passes close to many hundreds of others.

With the growth of metropolitan complexes, many thousands of

citizens travel across State lines for business or pleasure, not periodically, but on a daily basis. And at the same time, a great volume of the goods and appliances used by businesses which serve the public move in interstate commerce.

Thus it seems to me that the great majority of public accommodations in a true sense affect, or are affected by, interstate commerce. The issue is not whether Congress has power to act with respect to these businesses, but whether it wishes to draw the line short of a full exercise of its authority.

Secondly, I believe that a strong case can be made establishing a right to equal access to public accommodations under the equal protection clause of the 14th amendment. I recognize, of course, that in the *Civil Rights Cases*, decided in 1883, the Supreme Court rejected the 14th amendment as a basis for a statute similar in some respects to the bill you are considering. But in the past 80 years much of the force of that decision has diminished and the premises on which it was based have been undermined.

Justice Bradley, in the opinion of the Court in the *Civil Rights Cases*, assumed that the States were exercising their responsibilities for dealing with racial discrimination in public places. In fact, 30 States have now acted specifically to protect the rights of their citizens to equal treatment. But in other States quite the contrary has been true. Hundreds of statutes and ordinances enforcing a policy of segregation have been enacted since 1883. And in many localities which have no laws or which have repealed them, customs having the force of law have operated to establish a uniform community policy of segregation in public places.

Moreover, even in areas which have no segregation laws or policies, businesses serving the public have become much more involved with government over the course of time. They receive various kinds of assistance and protection from the State. Licensing and regulatory provisions such as antitrust, fair trade, and zoning laws have been enacted for the protection of legitimate business activity as well as for the benefit of the public. With this growing involvement, the concept of State action has expanded so that now the 14th amendment may be found applicable whenever "to some significant extent the State in any of its manifestations has been found to have become involved" in private conduct which abridges individual rights. (*Burton v. Wilmington Parking Authority*, 365 U.S. 715.)

The application of the 14th amendment is clear where there is "State participation through any arrangement, management, funds, or property." (*Cooper v. Aaron*, 358 U.S. 1, 4). Thus, for example, transportation companies and other enterprises which operate under a State franchise which gives them a preferred position must make their services available to all persons without regard to race. But these are not the only enterprises in which there is a substantial State involvement. It should be remembered that the earliest type of public utility was the innkeeper, and that businesses which offer food, drink, lodgings, or entertainment to the public are affected with a public interest and hence have been subjected to State regulation and control. Where such enterprises which serve the public are in fact regulated by the State, citizens are entitled to equal protection of the laws. Thus, while the commerce clause is an adequate basis for this legislation, the 14th amendment is an added source of congressional authority.

It follows from what I have said that I do not believe that in acting to protect personal rights, Congress would in any sense be violating the property rights of businessmen. The short answer to such a contention is that 30 States have already restricted the use of public accommodations in a racially discriminatory manner and that the courts have sustained these exercises of State power. For centuries, real property even when dedicated to private use has been subject to reasonable restrictions. These include restraints upon alienation, health, building, fire, and zoning codes, and even the taking of property by the Government. How then can it be asserted that a business which serves the public is not subject to reasonable regulation for the protection of the public—particularly when the restriction is simply upon proprietors making racial distinctions among the public they have chosen to serve.

Thus, in my opinion, legislation is urgently needed and Congress has ample authority to respond to the need. The only real issue is how Congress should exercise its recognized authority. In drawing any lines, it seems to me that Congress should be guided by a desire for effective enforcement of the rights guaranteed, for a reasonable degree of certainty in the coverage of the law and for imposing an obligation which will be borne equally by business establishments of a like character.

The standards are met best by S. 1732 which would establish the right of all persons to equal treatment in places of public accommodation if these places serve interstate travelers or in other ways, such as the movement of goods, substantially affect interstate commerce. Under this test, a familiar formula for Congress in enacting legislation pursuant to the commerce clause, the evil of discrimination would be removed in most public places while establishments of a purely local character would be excluded; the impact of the law would be equally distributed among businesses in competitive situations; and while there would be a few marginal areas of doubt, the great majority of proprietors would understand whether or not the law applied to them. If an attempt were made to import more certainty into the legislation, more troublesome problems might be raised. A formula based upon the dollar volume of various types of enterprise would not remedy the evil and would be inequitable in distributing the responsibility. What is a small and relatively unimportant enterprise in a large city often is a large and significant business in a small community. Under a dollar test, Negro citizens might continue to be barred from entry or excluded from service in many smaller communities, even though the enterprises exempted were of a public character and had a significant impact upon interstate commerce.

Too much concern has been given, it seems to me, to the small operator, the so-called Mrs. Murphy. I would point out again that 30 States now have public accommodation laws, and all of these are comprehensive in the scope of their coverage as far as the size of the establishment is concerned. People are, of course, free not to serve the public. But if they choose to serve the public, they should serve the public without discrimination. This may be a step which is hard for some to take in prospect. Once it is taken, though, we will be soon wondering why it was so long delayed.

It is important, too, that the legislation contain provisions for effective enforcement. S. 1732 meets this need by authorizing the Attorney General to deal with violations, while preserving local remedies and the right of the aggrieved individual to seek redress. The relief provided is an injunction and, while I think it might be useful to add a provision for liquidated damages, the emphasis is properly on preventive and remedial action rather than upon penal sanctions. Room is also left for employing voluntary procedures such as conciliation and persuasion so that many cases may be settled before they reach the stage of litigation.

Mr. Chairman, we are in the midst of a too-long delayed change in race relations in this country. The walls which divide our society are at last crumbling. The time has come when we should move clearly forward. We must now live up to the best of the American tradition, and build a society governed by laws which permit every person to participate and compete according to his ability. We must do so not merely for the benefit of those who have been held back by racial discrimination but because the health, economic welfare, security, and integrity of our Nation are at stake.

This is a responsibility which is entrusted in great measure to Congress under the Constitution. The public accommodations bill is the key element in legislation designed to meet this responsibility. I hope that Congress will enact it into law.

Senator MONROE. Thank you very much, Dean Griswold, for a very complete, comprehensive, and helpful statement.

I will call on the Senator from New Hampshire for any questions he might have at this time.

Senator CORSON. I agree with the chairman, and I think that this committee is privileged to have you take the time to give us your viewpoint.

I appreciate your statement.

As far as the moral pronouncements in your statement, I am in hearty accord.

I would like to avail myself of a little free legal advice. I have a few questions that I do want to ask.

One of them is perhaps argumentative, which is a presumption on the part of a country lawyer dealing with you, sir. The rest are all honestly seeking for light.

The question I ask from an argumentative standpoint refers to your statement on page 8 and again on page 9 in which you say, on page 8:

The short answer to such a contention is that 30 States have already restricted the use of public accommodations in a racially discriminatory manner and that the courts have sustained these exercises of State power.

And then again on page 10 you point out, in connection with the so-called Mrs. Murphy matter, that 30 States have public accommodations laws.

Dean, the States I thought admittedly had the police power, have far broader power in the matter of such laws than the Federal Government may have.

Would you comment on that briefly?

Mr. GRISWOLD. Yes, Senator; I would be glad to. I think the reference to the 30 States is designed to show that such regulation does not violate a due process clause notion. The States cannot enact legisla-

tion which deprives persons of life, liberty, or property without due process of law, and similarly under the fifth amendment the Congress cannot pass such legislation.

The taking of property, the interference with property rights, is customarily thought of as a due process question. And I think the fact that these 30 States have these statutes, that they have been universally upheld, shows plainly enough that there is not a legitimate due process objection to the pending bill, even if it is made applicable to all places of public accommodation.

It is true that the States don't have to seek for a foundation of power to enact these statutes, because they have, as you have said, the police power. But Congress has the commerce clause. A long time ago a great Virginian, Chief Justice Marshall, in *Gibbons v. Ogden*, referring to the commerce power, the first great case under the commerce clause, said:

This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution.

The only limitation is the fifth amendment, the due process clause. And what I have suggested so far is that the due process clause does not provide any kind of constitutional barrier to this sort of statute.

Consequently, if this is within the scope of the commerce power, then it seems to me that there is no objection to the statute, that the public accommodation laws enacted by the 30 States are a good analogy. And as far as its being within the commerce clause is concerned, there are so many analogies, some of which I have referred to in my statement, that I find it hard to doubt that this would be held to be a proper exercise of the commerce power.

If, for example, the washing of windows in interstate factories is within the commerce clause, if the growing of wheat on your own farm and feeding it to your own animals is within the control of Congress under the commerce clause, if a Fair Trade Act passed by Congress which regulates the retail price at which an article is sold by a small corner druggist in a small town is within the commerce clause, it seems to me clear that the activities involved here relating to public accommodations of travelers in interstate commerce, of people using public accommodations which make use of the facilities of interstate commerce, is within the scope of the power of Congress. That is perhaps a little wrong, but I have been trying to give an answer to what I regard as a perfectly fair and appropriate and, if I may say so, not argumentative question.

Senator CORRON. Thank you. I appreciate your answer.

If I understand you correctly, the reference to the 30 States that have passed laws and which laws have been sustained is pretty well confined to the question of the undue exercise of power over—

Mr. GRISWOLD. Entirely. The power of Congress must rest on the commerce power and not a general overriding police power. Congress has a police power only in those fields within which it has the commerce power.

It has been said long ago that the commerce clause is the cement of the Nation. The commerce clause is the thing that makes us a

nation. This is something on which we ought to be a nation; it seems to me.

Senator CORRON. You have commented on the fact that in this bill, in this proposal, reliance is placed on both the 14th amendment and the commerce clause. From your subsequent remarks I am inclined to ask you, do you think that the commerce clause is the stronger and safer and a more all-encompassing method of approach than the 14th amendment?

Mr. GRISWOLD. No, Senator. I think both of them are strong and embracing. I think that the commerce clause reaches a little further in some ways. I think the 14th amendment reaches a little further in other ways.

My thought would be that Congress should enact the prohibition, the standards which it wants, and then say that in making this enactment it is relying on the powers it has under the commerce clause, under section 3 of the 14th amendment, and any other powers it has under the Constitution.

I might say that as far as I am concerned the 13th amendment is relative here. The 13th amendment abolished slavery, and perhaps we can say smugly that there is no slavery in this country. But all of these things we are talking about I venture to say are vestiges of slavery and it does not seem to me to be going too far to say that the 13th amendment is also a source of power for this statute.

Senator CORRON. This may be a frivolous and improper question, but I think we all recognize that in recent years the commerce clause has been extended, or in some cases stretched, to a very considerable degree. Your quotation from the opinion of John Marshall leads me to ask this question—and this may be an improper form of question, and if so, you don't need to answer it. If you had been a member of the Supreme Court, would you have concurred in the decision that says that a farmer can be controlled on raising his own wheat on his own farm to feed to his own cattle?

Mr. GRISWOLD. Senator, that is what President Roosevelt called an "iffy" question. If I were a member of the Supreme Court—

Senator CORRON. I might say I wish you were.

Mr. GRISWOLD. Thank you, but I am not.

That, of course, is a hard question. That was a case which was very close to the borderline. In retrospect I think I can say that I am satisfied with the decision. I like to think that I would have voted in favor of the decision if I had had a chance to do so. It is very hard to put one's self prospectively in the position of having to decide such a question.

Certainly it is very close to the borderline and it is one of the instances of the greatest extent of Federal power with respect to commerce.

Senator CORRON. Because of that answer, with all due respect, I don't know but I want to withdraw my statement, "I wish you were."

Would you feel the same way about the decision that provided a window washer in a building—

Mr. GRISWOLD. Yes, I think so. I think I have less difficulty with that than I have with the wheat.

Senator COTTON. I am very much interested also, on page 9, in which you say:

Under this test, a familiar formula for Congress in enacting legislation pursuant to the Commerce Clause, the evil discrimination would be removed in most public places while establishments of a purely local character would be excluded; the impact of the law would be equally distributed among businesses in competitive situations; and, while there would be a few marginal areas of doubt, the great majority of proprietors would understand whether or not the law applied to them.

Most of my quandary about this particular bill—the quandary was not much relieved by such questions as I had time and opportunity to propound to the Attorney General—is exactly on that line. I am not asking you to comment on somebody else's opinion, much less the Attorney General, which might lead you into disagreement.

But we have heard a good deal about barbershops during these hearings. Perhaps undue emphasis has been placed upon them. Nevertheless I inquired of the Attorney General whether barbershops and beauty parlors would in his opinion be included in this bill. His reply—and I hope I am quoting correctly; and if I am not, I want to be corrected—indicated that barbershops in which a substantial portion of the patrons were crossing the State lines, likely to cross State lines, or had crossed the State lines, would be included, while barbershops in which only a minute portion of travelers sought service would not be included. And I said to him, "Do you mean that a barbershop situated near the perimeter of a State and where there are a great deal of people going back and forth would be included, and others would not?"

Mr. GRISWOLD. Like Hampton Beach, N.H., for example?

Senator COTTON. Yes. Of course, New Hampshire is so small we like to think all the barbershops are reached by all our tourists.

Somewhat to my surprise he said yes; that a barbershop situated near the perimeter conceivably would be covered under this bill, and one in the interior would not.

Then I went on to call his attention in the bill to the provisions on page 6 where it included the use or distribution of the sale of goods. I said, "Wouldn't the barbershop question be taken care of by the fact that every time you go into a barbershop you see a long array of beautifully colored bottles and the barber tries to sell you about four kinds of hair tonic, none of which probably are manufactured in my State and most of which came across State lines?" And he said no, he didn't think that that would apply; that it was a question of the patrons and whether they were interstate people.

You have indicated, at least you have an opinion, that people would understand clearly whether they are under it or not. I would like your comment on that barbershop problem as I have outlined it to you.

Mr. GRISWOLD. Senator, it seems to me that Congress can readily resolve that question by specifying in the bill that it does or does not apply to barbershops and beauty parlors, or specifying the circumstances under which it would or would not.

For example, barbershops in general hotels, it seems to me, might well be included. Whether the barbershop on the corner is included doesn't seem to me to be of complete importance, although personally I think if I were voting on it as a Member of Congress, which I am not, that I would vote for the comprehensive coverage.

My thought in the passage on page 9 to which you referred, I suppose that something that is not included in this bill is what we commonly call the roominghouse. And by that I mean a place where people reside, not as transients, not as vacationists for 2 weeks or a month, but a single man or woman, or a widow or widower who takes a room in a roominghouse and lives there 3 years or more. I would suppose that a person who ran a roominghouse, as distinguished from a place of accommodations for transients, was not covered by this bill.

The barbershop, I agree with you that it is hard to tell whether a particular barbershop is covered or not, the answer to that question may be that Congress should prescribe whether it thinks it wise.

As I said in my view I think it would include barbershops, and I think Congress has the power to include barbershops because of the array of bottles on the shelves that you referred to, among other things. But if Congress in its judgment decides to exclude barbershops, I wouldn't regard that as a matter of major importance.

Senator CORRON. If Congress starts writing into a bill whether it includes barbershops, and under what circumstances, and beauty parlors, and under what circumstances, and all these various service institutions or establishments that are not strictly professional, and yet are on the borderline, we would have a bill almost like the old tariff bills as we used to have before we outgrew them when we licensed all the merchandise. It would be a pretty cumbersome approach, would it not?

Mr. GRISWOLD. It might be, although I am not sure that there would be so many of these.

Incidentally, one that I would like to see specifically listed, that I believe is not, is hospitals. It seems to me that discrimination in hospitals is one of the shameful things we allow in this country.

Senator CORRON. I don't want to monopolize the time of the other members of the committee; but I am very anxious to ask you a few more questions.

I couldn't agree more with what you have said about this matter. It is morally wrong to exclude people because of the color of their skin from the Statler Hotel. It is morally wrong to exclude them from the smallest motel in the country. That is dead right.

How would you feel if we struck the words "substantially affects interstate commerce" out of the bill? Every time I read it I become more and more doubtful about it, because I think it increases the danger of people not knowing whether they are included or not.

I don't think it adds anything to the bill. If we are going to take this step what would you say about cutting out the word "substantial"?

Mr. GRISWOLD. Senator, I would favor cutting out the word "substantial." I was rather surprised when I saw it there, and had the same wonders about it that you have: just what does it mean?

The phrase "affects interstate commerce" has been used in other statutes passed by Congress. I should think it was the preferable phrase here.

I assume, if I may say so, Senator, that "affects interstate commerce" means substantially affects interstate commerce, but I would still prefer to have the statutory phraseology be "affects interstate commerce."

Senator CORRON. I still have fears about the bill, and these are selfish fears, and I mean selfish with reference to the State I represent.

We have the word "transient" put in there, as we all know, for a legitimate purpose. I don't have to tell you that the State I represent is a resort and recreation State, and it is one of the largest means of livelihood and income that we have.

From the time more than 40 years ago when I bellhopped in a summer hotel, through the years—

Mr. GRISWOLD. Which hotel was it?

Senator COTTON. Pemigewasset House in Plymouth.

Mr. GRISWOLD. As a boy I went to Camp Kennicowachek at Wentworth, N.H., not far from there.

Senator COTTON. I was born in Warren and raised there, and I went to Wesleyan University, and Dr. Fauver was athletic and medical director.

Mr. GRISWOLD. Dr. Fauver was a classmate of my father's at Oberlin.

Senator COTTON. It is very interesting indeed.

Now I know you are going to be sympathetic.

We have a situation where there are many small hotels that are in a sense resort hotels, and yet they do cater to transients in that they need, welcome, and receive overnight guests.

Having known something about the resort business in New Hampshire for many years, I know that the proprietor or the management of a resort hotel has really little or no control over whom he shall receive and whom he shall turn away. I know, right now, of small resort hotels where a lot of old dowagers from Boston have come for 30 or 40 years; they have a table in the dining room that they want to sit at; they have their corner of the porch where they want to play bridge, and if you or I—we don't have to be black or yellow or anything else—if you or I dared to intrude on their particular niche, they would just tear the roof off that hotel, and they are the people they are dependent on for patronage.

Mr. GRISWOLD. This sounds like the Crawford House.

Senator COTTON. I don't think the Crawford House would have any difficulty.

I have a letter here which I would like to read. It is a letter, of course, that brings in matters that are not covered under this. But it shows the dilemma that many of my constituents are in, and I am receiving a great many of these. This is from a lady who runs a small hotel in the mountains. She says:

I have contemplated writing our New Hampshire representative in the Senate and House since first reading about the bills being presented by the administration. We have a very definite interest in the bill concerning restaurants, hotels, and so forth. It does not bother us that the court says, "The law must be color blind."

Parenthetically, I quoted that in one of my reports to my constituents. I am glad to see she reads them.

In 7 years as proprietors of "Blank" Inn we have never refused a Negro. For that matter, we recently had three Negro couples as our guests as part of a convention group. However, we do cater to a specific type of individual. In the summer we cater to adults, primarily they are senior citizens who desire a quiet, peaceful vacation. These guests are narrowminded in some ways, and have a right to be. Consequently, we refuse accommodations to families and young people who would disturb them. This can be construed as segregation, I assume. However, this type of screening is essential to our inn's successful operation.

I told her this bill had nothing to do with that. But I am not sure she hasn't a point that the subsequent bill might if we set the precedent by turning down people because they have children and pets and might be noisy.

We also find that at times it is sometimes impossible to mix differing religious groups under the same roof.

And here follows a very interesting comment, remembering that the Supreme Court decision outlawed equal but separate facilities, and she apparently, frankly, is speaking of Jews and gentiles, she said:

During the 2-week Christmas holidays for example we have in the past been indiscriminating and as a result both groups went away unhappy. We now divide the vacation period into 2-week-long periods, one for each, and everyone is much happier. This freedom which we feel is being encroached upon allows us to keep our patrons happy, to protect the possible loss of this freedom. Without it we don't believe we can run a well-run inn and have satisfied guests returning year after year and without repeat customers we would soon be forced to close our doors and file bankruptcy. We sincerely hope that our views are those of the majority of the U.S. Senate Committee on Commerce.

That letter of course brings in matters that could not possibly be covered by this bill; which I explained to the good lady. But I have many more like it. I am deeply concerned about how far we can go either constitutionally or have a right to go along the road that this opens. For instance, Dean, let me ask you this:

I find it very clear in the opening of the bill it says:

The American people have become increasingly mobile during the last generation. Millions of American citizens travel each year from State to State.

As prelude to this matter of the question of the burden on interstate commerce; if Congress can pass a law compelling motels, hotels, and restaurants to receive people regardless of color, or nationality, could it pass a law, for instance, in protecting the public—and we have had this evidence of how it is difficult and believe me I am sympathetic with this, for Negroes to travel in certain parts of this country and find accommodations—would it be constitutional if Congress chose to pass a law that every establishment entertaining interstate transients must be prepared on Fridays to provide fish, and at all times provide kosher food?

Mr. GRISWOLD. I suspect, Senator, the Supreme Court having gone further in this direction than I favor with respect to prayers, that they would hold such a statute to constitute an establishment of religion to be invalid. I think we can feel fairly safe on the fish and kosher food.

Senator CORRON. I enjoy that answer, and I read and quoted in my own report what you have said about the matter of prayers, and agreed with you 100 percent. But nevertheless I didn't consider that a flippant and frivolous question. I seriously considered it.

Mr. GRISWOLD. I didn't consider mine a flippant or improper answer. I meant quite plainly that I don't think that a statute with respect to fish or kosher food would be constitutional.

I think I would like to add, with respect to these other things, too, Senator, that I don't think that we have to defend against every conceivable bill that Congress might some time have to consider. One of the reasons we have the Congress is to make decisions. And I

assume that Congress will not pass bills which are foolish or improper or go too far. There is obviously a question of judgment here. My judgment is, and my position on behalf of the Commission of which I am a member, that under all the circumstances which now confront us, this bill is a wise bill and does not go too far.

Senator CORRON. I regret I cannot share your optimism about the possibility of Congress being foolish and going too far.

On this matter which I brought up about my own State problem, is it your belief that the word "transient" is a protection, for instance, to this woman right here who has written me?

Mr. GRISWOLD. No, Senator. I think she is entertaining transients. But as I understand it, New Hampshire has a public accommodations law. My best guess is she is violating the New Hampshire law now. I haven't read the terms of the New Hampshire law, and don't have it before me. But I think as I recall newspaper accounts of it, her 2-week division at Christmas is a plain violation of the New Hampshire statute.

Senator CORRON. The New Hampshire statute makes it a misdemeanor and she might be brought into court and fined \$10 for refusing somebody.

Would you say that if the legislature saw fit to protect married young people with children and passed a law so that they could not be turned away, then that would be constitutional?

Mr. GRISWOLD. I have no doubt that if New Hampshire passed such a statute it would be constitutional. Whether that would be under the power of the Congress under the commerce clause is going further than this bill and something I don't feel I really have to answer here.

I don't know. If we pass this and get this upheld, that might be up for consideration. I know that in Massachusetts, for example, our nondiscrimination statute clause has a prohibition against discrimination on account of age. It is somewhat difficult to enforce in some ways because there are obviously certain jobs for which an old person is qualified and others for which a younger person is qualified. But there is a prohibition in the Massachusetts statute against discrimination on account of age.

Senator CORRON. Just a couple of more questions. I appreciate your patience, Mr. Chairman and members of the committee.

I gather from what you say, and in this I certainly would concur, that you feel that the mere enforcement of this law, if it passes, by injunctive processes is not enough?

Mr. GRISWOLD. I would like to see a liquidated damages provision which is common in the State statutes. The only experience I have ever had with this kind of a statute was when I was a very young man in my father's law office in Cleveland, Ohio, where I grew up. One of my father's partners, a Mr. Capp, had a case representing a man who ran in 1930, which was a fairly early time, a two-seat airplane in which he took people up at the Cleveland Airport for sightseeing trips for \$3 a trip or something or other. And he had refused service to six Negroes. They sued him for the \$500 penalty under the Ohio statute for anyone who refuses service on discriminatory grounds. And I remember that my father's partner was able to establish that since he only had two seats in the plane, he had only refused service to two

Negroes; that the other four had withdrawn before they were actually refused; and he then settled the case by paying one \$500 penalty instead of the two \$500 penalties. They received considerable publicity in the local papers and my guess is that it was quite a salutary sanction against discrimination in that area for quite a while.

I would myself favor a provision for some kind of a—not \$5 or \$10 and not astronomical, either—some kind of a penalty which could be obtained by suit by the person who was discriminated against.

I do think it is desirable not to have savage, too strong penal provisions in it. I do think that the approach by persuasion and eventually injunction is probably the best way in this area at this time.

Senator COTTON. For more than 90 years the Federal Government has to some extent been trying to make good on its covenant with the Negro that he should have full rights of citizenship. Statutes have been passed to implement the Constitution, and still, by various expedients—poll taxes, intelligence tests, literacy tests, and various other things—he has not, after 90 years, actually in all parts of the country received that privilege, and I for one have never failed to vote for any Federal act which would strengthen and insure him that privilege.

It is on this field that we are considering embarking. The matter of the form of this law seems to me that there will be just as many ways to get around it, and that if all you have is an injunctive proceeding, the aggrieved person must go to the courts and get an injunction, and that works in his case and then it ceases to go any further. This matter of saying that the hotel was filled and tables are reserved and something else will still be a bar.

In other words, this is difficult enforcement and certainly, if we are going to make it effective, must have much stronger enforcement than that.

Mr. GRISWOLD. I would like to see stronger enforcement provisions in it. I certainly agree that this bill will not answer all the problems. But I think it is a very important step, particularly at this time in our history.

Senator COTTON. Have you any suggestion or do you think any suggestion is desirable to in some way make more definite this term "transient" that worries me, and I think legitimately worries me with respect to many of the people whom I represent, who are actually not operating the kind of accommodations that this bill seeks to reach. I think it is a disgrace to this country to have people traveling up Route 40, and particularly ambassadors being refused service, being discriminated against. I am thoroughly in accord with a limitation on that. But I do have a very natural and you may call it selfish fear and apprehension, about this matter of the word "transient." There are certain types of establishments which should not be reached by this bill that are going to be reached, aren't they, in this form?

Mr. GRISWOLD. In my opinion the resort hotels of New Hampshire would be reached by this bill, and in my opinion should be reached by this bill.

Senator COTTON. My own New Hampshire statute makes a distinction between resort hotels and transient hotels, the housing or lodging of transient guests. Then it separates the use and accommodation of those seeking health, recreation, or rest in resorts. But you say that you think this should reach the resorts?

Mr. GRISWOLD. Yes, I do.

Senator COTTON. The resort hotels could hardly do business successfully now if they didn't differentiate between white people, and I am not talking about this other problem which we have of religions of Jews and gentile. I am just talking about types of white people.

Mr. GRISWOLD. This bill does not prevent discrimination on grounds other than that of race and religion.

Senator COTTON. I understand that is true. But—

Mr. GRISWOLD. Under this bill a resort could still say "No children." It could still say "Nobody under 70," if that is what they wanted. They could discriminate on any ground other than that of race or religion.

Senator COTTON. Should they be allowed to discriminate under these other grounds?

Mr. GRISWOLD. You can't have it both ways, Senator.

Senator COTTON. If we are going to say to a resort hotel that for many years has catered to a certain group and may well close its doors—a resort hotel is in a precarious situation with purely transient motels taking business away from them—we are, by Federal law, going to reach in to them and place them up against a situation that may put them out of business. Should we go the whole way and shouldn't we see to it that children and dogs—and I am not comparing, please understand, pets with human beings—but nevertheless shouldn't we go the whole way and see to it that the traveling public, traveling and seeking resort recreation, should have anything they want and nobody can have any—

Mr. GRISWOLD. I don't think so, Senator. I don't think we need to be absolute, that we need to be utterly comprehensive in everything we do. There isn't a major national problem with respect to age and dogs and various other things. There is a major national problem with respect to race. There is a problem which is on the doorstep of this Congress and which must be based and resolved by this Congress with respect to race. That is the problem we are dealing with.

Senator COTTON. I agree with you. However, you would go further than the administration has gone in even seeking to draw a distinction between transient places and resorts?

Mr. GRISWOLD. No. I would simply say that in my opinion the resorts are within the transient classification as it is in the bill.

Senator COTTON. That is your opinion.

Mr. GRISWOLD. That is my opinion. Whether that is right or wrong, I don't know. Congress of course can make it clear one way or the other if it wishes to.

Senator COTTON. In its present form it is your studied opinion that it reaches into every resort establishment anywhere in the country?

Mr. GRISWOLD. Yes, and I will even say quite clearly so. I am familiar with the operation of the resort hotels in New Hampshire. They deal with a transient business. People come and stay 2 weeks, maybe 6 weeks. But that is all. They don't come to live there.

Senator COTTON. Just one more question and I am through, and this is on another subject.

What is your opinion as to the policy of Congress enacting a statute that permits the President to withhold established aids, grants, benefits, programs, and Federal programs established by Congress and given to

the States, regions, and localities under certain fixed criteria, to force such States and localities to conform to this statute?

Mr. GRISWOLD. I don't quite see how that withholding could be focused on this statute. I can see how it could be focused on discrimination generally.

Senator CORRON. It is in the omnibus bill on this statute and gives that.

May I withhold that just a second?

I would like to finish this question afterward, but I will yield to Senator Hart, who is in a hurry. I am sorry.

Senator HART. No, you go right on.

Senator CORRON. This is absolutely my last question.

It is in the omnibus bill which, as an added enforcement, gives the President the right to say that the State of Alabama or the State of New Hampshire or some other State, or the city of X is deprived of all Federal housing and as I understand it all Federal grants and aids and programs if they fail to comply.

Mr. GRISWOLD. With proper limitations and qualifications which are in this provision, which has been put before me, and I very hastily glanced at, I am in favor of that provision.

We need sanctions to enforce compliance with the Constitution of the United States. And I have no doubt that the monetary sanction is a very powerful one, and it seems to me that it should be fully utilized by the Congress.

The President would act only pursuant to authority given by Congress, but I think that Congress should give him the authority in proper cases to see to it that Federal funds are not used to promote segregation which has in fact been the case in a great many instances in the South and in a great many other parts of the country.

Senator CORRON. And it may conceivably come out very important fields in which the same power could be and ought to be determined.

Mr. GRISWOLD. It might be, but that would be for the judgment of the Congress in each particular field.

Senator CORRON. So that every time that I vote for a new Federal program, I must have in the back of my mind that the day may come when, with a majority vote of Congress with which I may not concur, that will be taken away from my State because my State does not bend to the will of the Federal Government.

Mr. GRISWOLD. It does not then comply with some Federal policy established by the Constitution.

I believe, Senator, that the Constitution applies in Alabama and Mississippi and Florida as well as in New Hampshire and California. And if Congress takes steps to see that the Constitution is complied with in all parts of the country, it seems to me that Congress is simply doing its duty.

Senator CORRON. I agree to that. But I am talking about the method of sanctions and of using Federal benefits and largess as a whip to force—

Mr. GRISWOLD. I think it is an appropriate sanction in proper cases, carefully safeguarded.

Senator CORRON. That is an illuminating answer and I thank you. I again say I appreciate your being here. My questions have been asked purely to explore these matters.

Thank you.

Mr. GRISWOLD. I hope that my responses may have been of some help.

Senator COTTON. They have been of great help, and I thank you. Thank you, Mr. Chairman.

Senator MONRONEY. Senator Hart has asked time for a question or two. He has to go to the Judiciary Committee to hear testimony on another civil rights bill.

Senator HART. On the omnibus civil rights bill.

Mr. GRISWOLD. I wouldn't want to delay him on that, because that involves the continued life of our Commission.

Senator HART. Dean, even before the omnibus bill was introduced, I had the honor of introducing as a separate bill that particular title. I hope that in one way or another your Commission will remain in existence.

Sir, I appreciate the committee's allowing me to ask out of order just one question, and I suspect it bothers many of us. Certainly it bothers me.

You make the point that the 14th amendment would be an appropriate constitutional basis in addition to the commerce clause. Do I understand it correctly that if this is so, it means that today there is a violation of constitutional rights of Negroes when they are rejected in places of public accommodation if those places are in any fashion affected by State regulation?

Mr. GRISWOLD. Yes, I think that is true. It may be an abstract violation of constitutional rights for which there is at present no remedy, and the question is now whether Congress should not provide a remedy for it.

Senator HART. Right. Now, I take it you do believe that today, under the 14th amendment, there is a constitutional right for equal service in places in some fashion related to State regulation.

Mr. GRISWOLD. In places of public accommodation, I think we might say.

Senator HART. Then it would not be possible, would it, for Congress to establish any cutoff or category, whether dollar volume or anything else, if we proceed on the 14th amendment?

Mr. GRISWOLD. I think it is perfectly possible for Congress to do so. But it seems to me clearly arguable that Congress should not because the constitutional protection applies without limitation. My own view would be that Congress should give the protection here throughout the field.

Senator HART. Dean, I share that view completely. But I am troubled. This is evidence of the fact that I am not dean of a law school. I am troubled as to how to rationalize this combination: The 14th amendment gives a man the right to equal treatment in places of public accommodation. That is a constitutional right. How could Congress, by statute, say "but not if it is a hotel with fewer than nine rooms"; "but not if it does less than \$50,000 worth of business"?

Mr. GRISWOLD. I think that Congress could do it simply by doing it. The 14th amendment gives Congress power to enforce the provisions of the amendment. If Congress chooses to enforce the provisions so far but no further, I think Congress can do it. Indeed that is just what it has been doing for the past nearly 100 years; it has been not

enforcing it at all. It tried to 85 years ago in the civil rights bill, and that came tumbling down and for three generations after that we didn't do much more.

We are really now getting back to doing the job that should have been done long ago.

My own view would be that it ought to be done comprehensively. But if Congress chooses to put in some cutoff points for one reason or another at points which might be regarded as de minimis, or something like that, I suppose Congress has power to do so. My own view is that Congress should not, that it should make the coverage comprehensive.

Senator ENGLE. Will the Senator yield?

Are you referring now to the 14th amendment?

Mr. GRISWOLD. Yes, I am referring to the 14th amendment, and the Commerce Clause, both.

Senator ENGLE. I don't want you to dodge around this now. What I'm trying to find out is whether or not you think that under the 14th amendment we have the power to go forward affirmatively and to prescribe what must and will be done.

Mr. GRISWOLD. With respect to any facility which operates in any way, shape, manner, or form under State authority or sanction.

Senator ENGLE. If you will yield for one further question.

In the 14th amendment, there is a prohibition against the States, and that is what the decision in 1883 said.

Mr. GRISWOLD. Right.

Senator ENGLE. What you are saying is that if a State licenses a place to do business, then it is responsible for that business; is that right?

Mr. GRISWOLD. That the State cannot—that Congress can constitutionally provide under the 14th amendment that if the State licenses the place to do business, it cannot authorize it to do business in a discriminatory fashion.

Senator ENGLE. Are you referring to the discriminatory statute such as they have in Birmingham, where they build a wall, or just the fact that such as in some States, they license them to cut hair in a barbershop providing they are sanitary and so on?

Mr. GRISWOLD. There is no objection in this bill to a State requiring that a barbershop be sanitary.

This bill would prevent a State authorizing a barbershop to serve white people only. Whether it applies to barbershops or not I don't know. That is the question I discussed with Senator Cotton.

My basic answer, though, would be that Congress, if it thinks it is a doubtful or important question, Congress should provide that it does or does not apply to barbershops, or to barbershops in air, bus, and rail terminals and major hotels.

In answer to your question, Senator Engle, my point would simply be that if the business is authorized by the State, Congress can provide that it shall not be authorized to operate in a discriminatory manner.

My own view is that Congress should so provide.

Senator ENGLE. I agree with your conclusion but I'm not so sure about the legal basis for it.

I thank you for yielding.

Senator HART. Could the nature of the regulation that you would say gives foundation for an assertion that an establishment is a State activity, so as to bring it under the 14th amendment, be merely a revenue licensing relationship?

Mr. GRISWOLD. I think so, Senator, although it is very hard to know just exactly where the limits are with respect to the 14th amendment, and it is partly for that reason that I think it is very fortunate that there is also the commerce clause. I think that both should be relied on, and the commerce clause will reach a little further in some respects than the 14th amendment. The 14th amendment may clarify other situations.

There certainly are clearly many situations in many States in this country where legislation enacted by Congress under the 14th amendment is clearly valid. And I would like to reach all of those. I would like to reach the others that can be reached by the commerce clause.

I would not pitch this bill on one or the other. I would pitch it on both and use all the powers that Congress has. And as I said, I would throw in the 13th amendment, too, because I think it is really intellectually, practically relevant in this situation. These things are vestiges of slavery. We are still trying to clear up the problem that was supposed to have been settled by the Civil War.

Senator HART. I was struck by your addition. I notice it is not in your printed statement, your addition of the suggestion of the 13th amendment. It is just conceivable that the introduction of this, sir, of this idea may persuade people who heretofore have taken a rather neutral attitude in the argument that it is something they should engage in.

Again I thank you.

Mr. GRISWOLD. Senator, I have relied on the 13th amendment in testimony before the Judiciary Committee, and have engaged in a fairly extensive but every friendly discussion with Senator Ervin on it. This was with respect to the voting provisions which were being considered.

He expressed himself as astounded and incredulous, but I held my ground as he held his, and I still say that I think that the 13th amendment is highly relevant in this whole situation.

Senator HART. I was reading Senator Ervin's testimony before the Judiciary Committee as given last week. As you know, he disagrees with equal emphasis to your approach here. The reason for my asking the question about whether the revenue measure relationship alone would establish the relationship with the State to premise the 14th amendment was occasioned by his insistence in his testimony that in North Carolina there were a hundred-odd phases of business activities where the only relationship to the State was through a franchise tax.

I was curious—

Mr. GRISWOLD. I would feel that a franchise tax was enough. If it is a general property tax it is applicable to everybody whether you are in business or not, I would have much more doubt. But a franchise tax which gives you the right to conduct a restaurant I would think is enough.

Senator HART. And run a law office?

Mr. GRISWOLD. I don't know of any—

Senator HART. In North Carolina a law office is apparently subject to this tax.

Mr. GRISWOLD. I know of no reason why a law office should—it seems to me to be a part of the lawyer's oath that he should serve any member of the public who comes to him. Color would be quite inappropriate to decide whether you would give legal services or not.

Senator HART. I agree with your views and to the extent that mine might reflect disagreement, I was paraphrasing some of my colleagues on the other committee.

I thank this committee for letting me go ahead of my turn.

Senator MONRONEY. Senator Engle?

Senator ENGLE. I very much appreciate the very fine statement you have made, and I think it is an excellent analysis of our legal problems. Most of us, I'm sure, are in favor of the objectives of this legislation. On the other hand, some of us have some grave misgivings about the legal premises on which we are going forward.

I take it that you agree that the 14th amendment does not reach as far as we would like to go; is that right?

Mr. GRISWOLD. In some cases the commerce clause, it seems to me, gives greater power to Congress than the power of Congress to enforce the 14th amendment.

Senator ENGLE. The reason for that is because the 14th amendment is basically a restriction on a State action; is that correct?

Mr. GRISWOLD. That's correct. That is the way it is worded. On the other hand, there could be situations, it seems to me, which do not involve interstate commerce, where there were only local guests and no food was served except that grown on the place, and no fertilizer was used except that produced on the place, and a State statute which required segregation. In such a case the commerce clause might not apply, but the power of Congress to enforce the 14th amendment would.

So that there are cases where one goes further than the other; other cases where the other goes further. My point is that Congress should rely on both. I see no reason for a dispute as to whether we are dealing with the commerce clause or the 14th amendment. We are dealing with both.

Senator ENGLE. We do admit, though, that the 14th amendment does have limitations.

Mr. GRISWOLD. Oh, yes, clearly. It is applicable only to exercises of State power, but that can be and has been construed very broadly.

Senator ENGLE. Second, let's take the commerce clause. It has limitations also.

Mr. GRISWOLD. Yes.

Senator ENGLE. Would you agree that the commerce clause has been pretty well stretched in recent years?

Mr. GRISWOLD. I would agree that the commerce clause has proven to be a very powerful instrument of Federal power. As I have said before, it is the cement that ties this Union together. It is the thing that makes us a nation. And some of us are proud that it is a nation.

Senator ENGLE. And then our conclusion is that we are riding two horses, and one is the 14th amendment and the other is the commerce clause, and each has its limitations. Is that right?

Mr. GRISWOLD. Right. Right.

Senator ENGLE. Would you agree with me that we can probably make it into a safe landing legally with legislation based as it is upon these two sections of the Constitution, each of which has its limitations?

Mr. GRISWOLD. And the statute will be applicable only within the limitations of those two, or put it another way; it will not be applicable except to the extent that one or the other of those powers reaches, to which as I have said with Senator Hart, I would add the 13th amendment, too.

Senator ENGLE. Would we be on sounder grounds constitutionally if we simply turned the 14th amendment around and made it an affirmative assertion rather than a limitation on State action?

Mr. GRISWOLD. You mean to amend the 14th amendment?

Senator ENGLE. Add an amendment that the Constitution that gave the affirmative power of Congress to assure the equal treatment under the laws, enforced by the Federal Government.

Mr. GRISWOLD. That would be a way to approach the question. In my opinion it isn't necessary because I think Congress has adequate power to do what is needed now, and indeed I think it is needed now and not 3 years from now. Congress has adequate power under the existing 14th amendment, the commerce clause, and, I add, the 13th amendment.

Senator ENGLE. Would you anticipate that this law, if passed, would be tied up in litigation for a great many years?

Mr. GRISWOLD. I would surely anticipate that there would be a great deal of litigation. How long it would be tied up I don't know.

Unfortunately sad to relate, we inch along in this area. But the passing of this statute would be a step of not inches but of feet and would be well worth the cost in seeing what the consequences of litigation were.

I have no illusions that this is going to answer all the problems. But let me just suggest to you, Senator: Suppose Congress doesn't pass this statute. What will the consequences of that be? That would be a disaster.

I don't see that you really have any alternative.

Senator ENGLE. We intend to do our best, I can assure you of that. But what I'm suggesting to you is that after we do pass it, we will probably be in court for the next 10 or 15 years. Is that right?

Mr. GRISWOLD. I would like to be optimistic and say 3 or 4 years. But we will certainly be in court.

Senator ENGLE. I assume that they will test case after case.

What would be wrong with writing the equivalent of the 14th amendment but putting it in the affirmative, which gives the Federal Government the right to insist upon and enforce equal rights under the law?

Mr. GRISWOLD. The thing that would be wrong, Senator, would simply be the time that it would take to get such a provision adopted by three-fourths of the States, and the fact that it would seem to a great many people to be at most a delaying tactic, trying to stall off the real decision which I think the Congress has the power to make now.

Senator ENGLE. No; I am not suggesting that. What I am suggesting is that we go ahead and pass this, and then put a second barrel in the shotgun; that is, put together an amendment to the Consti-

tution which is broad enough and which in effect upends the 14th amendment, which is negative in character, and make an affirmative assertion. So that if we get tangled up in interminable litigation with reference to what we have already passed, that we have a second barrel in the gun coming along which would clearly and affirmatively give the Congress of the United States the right to move in a field which today, under the 14th amendment and under the commerce clause, as you have admitted, has limited application in each case.

Mr. GRISWOLD. If the proposal is to pass this bill in substance, and to seek an amendment—

Senator ENGLE. And backstop it with a proposal to amend the Constitution. And I would add a new article—

Mr. GRISWOLD. Congress shall have the power to do whatever—

Senator ENGLE. Precisely. In other words, take it out of the negative and put in in the affirmative, and put a second barrel in the shotgun so that passing this legislation, facing litigation as we are sure we will, it may tie up the effective operation of this legislation for many years.

We have it backstopped with an affirmative proposition in the Constitution itself which clearly defines the power of Congress to act affirmatively in the area of equal treatment under the laws, without regard to race, color, or creed.

Mr. GRISWOLD. It seems to me that that is well worthy of consideration.

The only thing that occurs to me at the moment that gives me hesitation is the fact that it would seem to indicate more doubt as to the power of Congress to act under the existing constitutional provisions than I would myself have.

Senator ENGLE. You are more confident of those provisions than I am. I think that Congress does have the power both under the 14th amendment and under the commerce clause to proceed, but I think the 14th amendment does have limitations, and I believe that the commerce clause itself does have limitations.

My view is that if discrimination is wrong—and I believe it is wrong—that it is just as bad to have it in a hamburger stand with six seats as it is to have it in the Waldorf-Astoria. But I am not sure that you can reach the hamburger stand with six seats under the 14th amendment or under the commerce clause.

However, if you turned the commerce clause around and made it affirmative—

Mr. GRISWOLD. Turned the 14th amendment?

Senator ENGLE. The 14th amendment. If you made it an affirmative power of Congress to move in this area, you would have no doubt about it, would you?

Mr. GRISWOLD. If a new constitutional provision was comprehensive, then we would have no doubt about it.

Senator ENGLE. Thank you very much.

Thank you, Mr. Chairman.

Senator COTTON. Mr. Chairman, I want to announce that Senator Scott asked to announce that he was unable to attend this hearing because he is in the Judiciary hearing.

Senator MONRONEY. We will make that a matter of record.

The Senator from Vermont.

Senator PROUTY. Dean Griswold, I just returned from an FEPC hearing, so I did not have an opportunity to hear your statement.

I would like to ask you about an approach which I think has not been suggested heretofore and get your general reaction.

The first clause of section 1 of the 14th amendment provides, and I quote:

All persons born or naturalized in the United States, subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

Section 5 of the 14th amendment provides, and I quote:

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Would you read, or could you read these two provisions together and conclude that as an incident of the Federal legislative power Congress would describe and define incidents of national citizenship to include national protection of civil rights?

Mr. GRISWOLD. I don't know, Senator. I have never given thought to that particular question. That seems to me to be stretching the first section of the 14th amendment quite far. But perhaps it is a stretch that can and should be made.

Certainly being a citizen of the United States means something. And Congress might well have power to prescribe what are the essential characteristics of American citizenship which might well include nondiscrimination.

Senator PROUTY. Assuming that the Supreme Court might conclude that Congress has the power to define rights of national citizenship so that civil rights could be protected by the Federal Government, would there be any requirement for a finding of State action before Federal protection could come into play?

Mr. GRISWOLD. No, Senator, to the extent that you could proceed under section 1, the requirement of State action only comes in with respect to the due process and equal protection clauses, which I think are in section 2.

I can only say that I have never given consideration to the possible scope and application of section 1, and the more I think of it, in the few seconds since you first suggested it, the more potentialities it seems to me to have.

Senator PROUTY. I would like to quote from the "Declaration and Resolves of the First Continental Congress" of October 14, 1774:

That the inhabitants of the English colonies in North America, by the immutable laws of nature, the principles of the English constitution, and the several charters or compacts, have the following rights:

2. That our ancestors, who first settled these colonies, were at the time of their emigration from the mother country, entitled to all the rights, liberties and immunities of free and natural-born subjects within the realm of England.

3. That by such emigration they by no means forfeited, surrendered, or lost any of those rights, but that they were, and their descendants now are entitled to the exercise and enjoyment of all such of them, as their local and other circumstances enable them to exercise and enjoy.

Were the rights referred to in this declaration restricted or limited by the adoption of the Constitution of the United States? Was it either the right, the liberty, or the immunity of free and natural-born subjects within the realm of England to have free and equal access to places of public accommodation?

Mr. GRISWOLD. Well, Senator, that is a very interesting argument which would carry more weight with me if the people who wrote it in 1774 had had any conception that it applied to black people as well as to white people.

Read in the present context, the language is very good. But I find it a little bit hard to rely on it too strongly with respect to the problem which is with us now.

There has been a growth in a period of 179 years. The rights which they then thought of as applicable only to the descendants of Englishmen we know, and I think rightly, regard as applicable to all persons born in or citizens of this country.

But I can't myself support the present bill except in a very tenuous and historical sense out of those resolutions of the Continental Congress, fine as they were for the time.

Senator PROUTY. Isn't it a fact that from the inception of this country until the Civil War all citizens—and I repeat, citizens—were entitled to free access to public accommodations?

Mr. GRISWOLD. No; I don't think so. We had free Negroes who were citizens, and even in my State of Massachusetts it was held that they were not entitled to attend desegregated schools. The legislature promptly changed that, but that was the decision of the Court in a famous case in 1845 or so. And I think if we made historical investigation we would find that there were many discriminations against free Negroes in the period before the Civil War.

Senator PROUTY. Generally speaking, isn't it true that the post-Civil War segregation laws place limitations on the Negro citizen that had never been imposed on any group of citizens in this country?

Mr. GRISWOLD. That has been my understanding. Of course we forget that most of the segregation laws, the Jim Crow laws, weren't enacted until the 1890's, a full generation after the Civil War. And there was a long period before that when there was no such legal discrimination. There never should have been such discrimination allowed.

It is, I suppose, the progeny of the Supreme Court's decision in the *Civil Rights Cases*: 1963 is far too late a time for us to be taking major steps to do away with it.

Senator PROUTY. Justice Harlan, sitting in the *Civil Rights Cases* of 1883, felt it was indisputable that there are burdens and disabilities which constitute badges of slavery and servitude and that Congress had the power to enact legislation of a direct and primary character for the eradication not only of the institution of slavery but also of its badges and incidents. Milton Konvitz, writing in "A Century of Civil Rights" said that the attributes of slavery included the attitude by the slaveowner that (1) the Negro was in his proper status as a slave, (2) the slaveowner had the obligation to protect the slave, and (3) slavery was good, justified, a blessing to both races, morally right and wholly consistent with justice, reason, and Christianity.

When Governor Wallace was here, he testified that segregation was (1) proper, (2) offered the Negro a good life, (3) was good, justified, a blessing to both races, morally right, and wholly consonant with reason and Christianity.

There is a striking similarity between these two statements.

Would you say that segregation as a system was "slavery" within the contemplation of the framers of the 13th amendment?

Mr. GRISWOLD. Yes, I think so. This is quite consistent with, and is in support of, the position I have suggested here; that in addition to the commerce clause and the 14th amendment, Congress should definitely utilize its powers under the 13th amendment in passing the pending bill.

Justice Harlan used "badges" of slavery. I said "vestiges" of slavery. I think we mean exactly the same thing.

Senator PROUTY. There are numerous theories relating to the power of Congress to legislate in protection of civil rights under the 14th amendment. Perhaps the most dominant theory is known as the State action theory. Some bills before this committee rely on a finding of State licensing of public accommodations to find State action for the purposes of legislating protection for civil rights. Isn't possible to find some form of State action in almost every facet of business? Couldn't it be said that when a State offers police or fire protection to a business there is some form of State action in support of that business?

Mr. GRISWOLD. Yes, Senator. I, in my discussions with my friends, have referred to the case of *Shelley v. Kraemer*, which was the restrictive covenants case, where the Supreme Court held that a State could not, through its courts, enforce a restrictive covenant because this would be State action by the courts enforcing a denial of equal protection of the laws.

It seemed to me that much the same argument could be made with respect to State action enforcing a trespassing statute, calling the police to throw a Negro out. This is State action just as much as the enforcing of a restrictive covenant clause. All that my friends have said to me when I raised this question is that, "Well, nobody has pushed *Shelley v. Kraemer* that far." But it seems to me that there is at least room to consider whether State action in forcing a discriminatory claim of trespass is within the scope of the decision of *Shelley v. Kraemer*.

Senator PROUTY. If State action then is the criteria and assuming that State action can be found in all business relationships, doesn't the problem resolve to a balancing of the interests of protecting civil rights against the interests of the business establishment to be free from regulation?

Mr. GRISWOLD. Yes, except I don't suppose that the business establishment has any strong claim to be wholly free from regulation. The very fact that one puts himself into the marketplace and the fact that one invites the public to patronize his place carries with it almost inevitably the necessity for some kind of regulation.

Senator PROUTY. If the ultimate question is a balancing of these interests, doesn't Congress have broad power to define how those interests should be balanced, subject only to the restraining provisions of other sections of the Constitution?

Mr. GRISWOLD. I believe it does, yes.

Senator PROUTY. I believe you stated in your presentation this morning, the Supreme Court in the *Civil Rights Cases* of 1883 assumed that there were State remedies for denial of civil rights. Would you say that State nonaction to protect these civil rights might be a basis for the Federal Government to enter the field?

Mr. GRISWOLD. No, I don't see how State nonaction can be a basis for Federal power. I would prefer to base the Federal power on express

provisions of the Constitution, the commerce clause, the 14th amendment, and the 13th amendment. And I may say that you have given me a considerable new idea in the potentialities of the first section of the 14th amendment in the power of Congress to enforce the first section by defining the rights of American citizens.

Senator PROUTY. I hope you will give a similar study——

Mr. GRISWOLD. That, as you pointed out, does not have the limitation of State action.

Senator PROUTY. Thank you, Mr. Chairman. Thank you, Dean Griswold.

Senator MONRONEY. Senator Morton?

Senator MORTON. Dean, the Hill-Burton hospital program, which we have had for some years, has contributed about a billion and a half dollars to aiding 4,000 hospitals being built. It has a separate but equal feature written into it, as indeed has the Morrell Act of 1890 in which we give aid to States for extension services, things of that nature. Since the 1954 decision wouldn't you say that the separate but equal features of these two acts are indeed out the window now?

Mr. GRISWOLD. It seems to me that they are clearly unconstitutional.

Senator MORTON. Therefore would it not follow that the President could, if he so desired, by Executive order, require that the use of the benefits of either the Morrell Act or the hospitals that are built with Hill-Burton aid funds could not be segregated?

Mr. GRISWOLD. Certainly, Senator, I think he could provide that prospectively, that is, any hospital hereafter built. I would want to think a little bit as to the President's power. I am not now talking about Congress' power. I would want to think a little bit about the President's power to make such a provision applicable to a hospital which was built, let us say, before 1954.

Senator MORTON. We in our Federal aid for education, which we have debated so intensely in the Congress over the past years, even with the failure of certain measures, have over \$2 billion of Federal funds in one form or another today going into education, about 15 percent of which is for actual construction. Again prospectively by Executive order could not the Executive, the President, act in this area?

Mr. GRISWOLD. I think he clearly should. This is the position of the Civil Rights Commission. We took it in a somewhat strong way last spring and got criticized rather sharply for it. I think properly interpreted we were right.

Senator MORTON. I don't know what the House will do, but the Senate has recently renewed the area redevelopment program. Some of these funds are used for motels, hotels, various public accommodations. The President has indicated that in the construction of these facilities, discrimination should not be applied to the workers. But wouldn't again prospectively the Executive be able to require that the use of these facilities——

Mr. GRISWOLD. I should think clearly so, and I think he should.

Senator MORTON. Thank you, Mr. Chairman.

Senator MONRONEY. Thank you, Senator Morton.

Senator Pastore?

Senator PASTORE. By the same token, Dean, don't you feel that the Congress itself has the responsibility, and at least the authority under the law, to implement the 1954 decision of the Supreme Court by requiring it by statutory law——

Mr. GRISWOLD. Yes.

Senator PASTORE. That that restriction should be——

Mr. GRISWOLD. I clearly do.

Senator PASTORE. So this applies to the Congress as well as——

Mr. GRISWOLD. This applies to the Congress. The question put to me was as to the President's power. Might I explain, with respect to that, my thought there was that the President is by the Constitution required to see that the laws be faithfully executed. The laws which he is required to see faithfully executed include the Constitution of the United States. And these provisions with respect to separate but equal being in my view plainly contrary to the Constitution of the United States it seems to me that it was simply the President's duty to carry out the law of the land and to prescribe that the facilities constructed under these acts of Congress be operated in a nondiscriminatory fashion. But I fully agree that the responsibility is just as much—I won't say any more; there are three coordinate branches of the Government—but the Congress is just as responsible to see that the Constitution is complied with as are the courts and the Executive. It seems to me clear that the responsibility is on Congress to prescribe that the expenditure of Federal funds not be carried out in such a way as to implement or enhance segregation.

Senator PASTORE. I am going to confess my motive—merely to indicate that the cat is on both our backs.

Senator MONRONEY. We have a fellow Senator here whose bill has received a great deal of study and consideration. He is here and he has some questions he would like to ask our witness. Senator Cooper?

Senator COOPER. I thank the committee for allowing me to ask these questions. Dean Griswold, Senator Dodd and I introduced a public accommodations bill on May 23 which is based solely on the 14th amendment. I would like to say that I agree that a public accommodations bill can be based on the interstate commerce clause of the Constitution. I have no doubt about that. But I am very anxious that the 14th amendment approach be included in any bill enacted by the Congress.

I would like to ask first if, in your view, it is not true that the bill which is presently before the committee—the administration bill, which refers to the 14th amendment only in the preamble and not in its operative language—in fact does not include the 14th amendment as an approach?

Mr. GRISWOLD. It is a little hard for me to tell, Senator. I didn't draft the bill and it is always easy to criticize somebody else's draftsmanship. Were I drafting the bill I would include the comprehensive preambles which are interesting and possibly used as window dressing. I would then have prescribed the things which are forbidden or which must be done, and I would then have added at the end that this statute shall be effective insofar as Congress has power to pass statutes under the commerce clause, or under the 14th amendment, or, I would add the 13th amendment. I would not pitch it on any provision at all. I would say what Congress thinks the rule should be, and then I would make it explicit that any constitutional authority for Congress to rely on is relied on. And I would certainly include the 14th amendment.

Senator COOPER. There is another matter on which I would like to have your opinion.

Mr. GRISWOLD. Indeed, I am more and more impressed by Senator Prouty's suggestion, and it seems to me it might well be specifically stated that Congress was, in doing this, defining and prescribing the rights of citizens of the United States under the 14th amendment.

Senator COOPER. One of the arguments that has been made against the 14th amendment approach is that the Congress would be writing legislation controverting the 1883 decision of the Supreme Court in the *Civil Rights Cases*. I do not think so, and I am worried because the Attorney General has indicated that in order to sustain an act based on the 14th amendment, it would be necessary for the Court to overturn that decision. I don't think that is correct, but I would like to have your opinion.

Isn't it a fact that in its 1883 decision the Supreme Court did not pass at all on the issue of the right of access—the equal right of access of citizens to the accommodations that were named in the 1883 statute?

Mr. GRISWOLD. As I understand it, it did not rely on section 1 of the 14th amendment.

Senator COOPER. And the court in that case was only called upon to pass upon the actual language of the 1875 act, which did not refer in any way to State action?

Mr. GRISWOLD. I believe that is correct.

Senator COOPER. Would you say, then, that if the Congress should enact as a part of this bill language which showed State involvement, the Supreme Court would not be called upon to reverse an 1883 decision?

Mr. GRISWOLD. No, this—

Senator COOPER. It would be called upon to distinguish—

Mr. GRISWOLD. This would not require overruling but simply distinguishing it on the ground that in the newer bill Congress had expressly pitched it on State action.

Senator COOPER. The argument has been made that Congress would be enacting legislation in the face of the 1883 decision. I must say that argument has been given support by the testimony of Mr. Burke Marshall, I believe. And I am glad to hear you state that my position is correct—that the court in 1883 passed upon an entirely different situation; the language which could be included in the administration bill and which Senator Dodd and I include in S. 1591 would show State involvement.

Mr. GRISWOLD. As I have said, it seems to me quite clear that this would be distinguishable from the statute which was involved in the *Civil Rights Cases*.

Senator COOPER. If the committee and the Congress should include in this bill language which showed that to some significant extent the State, in any of its manifestations, has become involved in private conduct which abridges individual rights, in your judgment that would fall under the terms of the 14th amendment?

Mr. GRISWOLD. That, in my judgment, would clearly fall under the terms of the 14th amendment, and equally clearly would fall outside of the decision in the *Civil Rights Cases*.

Senator PASTORE. Would the Senator yield on this point?

Senator COOPER. Yes.

Senator PASTORE. Is it fair for me to assume, Dean Griswold, that even in spite of what the distinguished Senator from Kentucky has said, that in view of your concept of the 14th amendment, and the licensing feature that you have explained, that you disagree with the 1883 decision?

Mr. GRISWOLD. Insofar as the 1883 decision involved no State action at all, and insofar as it was relying on only section 2 of the 14th amendment, I think I would agree with the decision. Senator Cooper is talking about a situation where adequate State action is involved. Senator Prouty suggested the relevance of section 1 of the 14th amendment. And one of my associates here has just called my attention to the famous case of *Edwards v. California*, which involved the migrants from Oklahoma going to California, and California tried to keep them out. The Supreme Court held that they could not, saying that "The right to move freely from State to State is an incident of national citizenship."

It seems to me that that case furnishes strong authority for saying that Congress, under section 1 and section 5 of the 14th amendment, has power to prescribe that the right to move freely from State to State—and that includes being accommodated when you move, because you can't move and just sleep in the ditch by the side of the road—is a right which Congress can prescribe under the 14th amendment.

Senator PASTORE. Would you go so far as to say it is an inherent right of the citizen if the United States under the 14th amendment to be treated equally, without discrimination with regard to race or color under the spirit of the 14th amendment, even in the case of privately owned public facilities?

Mr. GRISWOLD. In places of public accommodations; yes, sir, Senator.

Senator PASTORE. Without a statute?

Mr. GRISWOLD. Without a statute.

Senator MONRONEY. Senator Cooper?

Senator COOPER. I have another question.

The relation of the State and business then, that we have to come to grips with under the 14th amendment is that the State has become significantly involved in discrimination by a business which is held out to the public; that is, the State by its regulations, licensing or other regulation, to a significant extent has become involved in this activity?

Mr. GRISWOLD. As far as section 2 of the 14th amendment is concerned, yes.

Senator COOPER. That, in your view, would rest clearly on the 14th amendment?

Mr. GRISWOLD. Yes.

Senator COOPER. One more question and I will close, and I thank the committee for its kindness.

Isn't it correct that if reliance is placed entirely on the Commerce Clause, then the Congress would be in the position of declaring legislatively that discrimination can be practiced in those businesses, wherever they are—and there must be thousands of them throughout this country—which cannot be brought under the Interstate Commerce Clause?

Mr. GRISWOLD. At least Congress would be saying we aren't doing anything about it. It might be saying we don't think it is right, but

Congress would be taking no steps with respect to it, and my own view is, with you, Senator, that Congress should exercise its powers under the 14th amendment. It seems to me that is not just a question of wisdom. To me it is a question of duty. Congress ought to exercise its powers under the 14th amendment, in addition to its powers under the commerce clause.

Senator COOPER. Isn't it correct then, if reliance is placed solely on the commerce clause, that the issue of discrimination in public accommodations will not be decided fully, and the country will continue to be faced with the same issue with respect to the thousands and thousands of public accommodations which would be permitted to practice discrimination?

Mr. GRISWOLD. If reliance is placed solely on the commerce clause, we greatly increase the incidence of litigation, the delay and the uncertainty, and we leave a large area uncovered. I would go even further. This is the thing which in large measure should be black or white. People should know that it is the national policy that there is to be no discrimination.

Now, if it is the national policy that there is to be no discrimination in one field and it is all right to have some discrimination in another, then the whole thing is uncertain.

If the public knows that in places of public accommodations it is the law that there is not to be discrimination, we have some chance that, as has happened in a great many cities of the country in our time, people will come to accept that and it will be taken as a matter of course. And the surprising thing about this whole business is that once you do it, it is very easy. And if Congress takes half steps here, we will still be in an area of turmoil. But if Congress will simply cover the area, the chance of psychological acceptance, which is really the ultimate thing here, it seems to me will be greatly enhanced.

Senator COOPER. This has been my contention, and I agree with what you have said.

Relying solely on the interstate commerce clause is not the right step, because it postpones the issue and is a kind of half step.

Mr. GRISWOLD. It seems to me to be clearly only a half step.

Senator MONROE. Any further questions?

Senator COOPER. That is all that I have.

Senator MONROE. Thank you very much for your appearance here.

Senator MORTON. Senator Prouty could not get back. He is an important meeting in the Labor Committee. He asked me to read this statement:

I have felt from the beginning that discrimination in public accommodations has the taint of slavery which the 13th amendment was designed to abolish.

I believe also that Congress has the right and the power to define and declare what citizenship means under clause 1 of the 14th amendment.

Therefore, I shall endeavor to have Congress approve a bill which will rely on the 13th amendment and the Citizenship Clause as well the powers mentioned in the bill.

Congress would not under this approach be hampered by the State action requirement.

I submit that on behalf of Senator Prouty.

Senator MONROE. Senator Hartke has some distinguished visitors from overseas that he would like to introduce at this time, if you will pardon this interruption, Dean Griswold.

Senator HARTKE. I want to apologize for interrupting the testimony. I have here with me the President of the Ethiopian Senate, His Highness Dejazmatch Asrate Kassa, and His Excellency Senator Lij Araya Abebe, who is with him. They are visiting here in the United States. They will be followed by a visit from the Emperor, Haile Selassie, who will be here October 1.

The man who is testifying is one of our most distinguished civilians, the dean of the Harvard Law School, Dean Griswold.

The chairman presiding is Senator Monroney. We are delighted to have you with us to hear this testimony to the extent that you can on a very important matter in the United States, the matter of civil rights.

Senator MONRONEY. Thank you, Senator Hartke. We welcome our distinguished guests from overseas and appreciate their taking the time to drop in on the U.S. Congress to see the processes of our legislation.

They are always welcome. I know that Senator Hartke will see that you visit the Senate Chamber and other points of interest to you here.

We deeply appreciate the long and splendid friendship that we have enjoyed with the people of Ethiopia and with their splendid Government.

Thank you very much for coming.

Dean Griswold, I have some questions that Senator Thurmond wished me to ask for him. He had to leave for an important meeting of the Armed Services Committee. I would first like to ask, on my own:

You refer in article 14 to the second section. I am sure what you mean is the latter part of section 1, if I may read it, because the second section, as it is numbered here, deals with the right of limiting the number of Representatives to the Congress if all citizens eligible to vote are not given an opportunity to vote.

Mr. GRISWOLD. I may say that that is a section which I think Congress should take action to enforce. But you are quite right, I was referring to the second part of the first section.

Senator MONRONEY. There are really, I think, four parts. Section 1 says:

All persons born or naturalized in the United States and subject to jurisdiction thereof are citizens of the United States and any State wherein they reside.

I would consider that to be point A.

Mr. GRISWOLD. Right.

Senator MONRONEY. Point B:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.

Point C:

Nor shall any State deprive any person of life, liberty, or property without due process of law.

Point D:

Nor deny any person within its jurisdiction the equal protection of the law.

This is the section 2 that you were referring to that was suggested earlier as one of the means of approaching basic legislation dealing with discrimination.

Mr. GRISWOLD. It is the latter three parts of the section 1 that I really was referring to, what might be called the privileges and immunities clause, the due process clause, and the equal protection clause.

Senator MONRONEY. And this is one of the bases on which this law would rest.

Along with the several members of this committee, I am still very much disturbed about the expansion of the commerce clause. And while you say it is not even subject to argument, I feel that there are logical things that could be and have long been under the commerce clause. For example, you mentioned the airports case, the railroads cases, and they are obviously in interstate commerce.

I would feel that even using the standards of multiple ownership, interstate ownership of hotels, or of eating places, such as Howard Johnson and others, we would not question their status as interstate commerce. But the development of interstate commerce to include all of the facilities that must be included if this is to be based on the interstate commerce clause, I think would be not only going beyond the intent of the Constitution but of many of the Court holdings. Certainly when the Court handed down the decision of 1883, the commerce clause existed, as it exists now. But the Court did not choose to approve these laws on that base, which was available to it.

Mr. GRISWOLD. Senator, could I ask: What about the food and drug law?

Senator MONRONEY. The food and drug law, as I understand it, is based on the health provisions of the Constitution.

Mr. GRISWOLD. Oh, no.

Senator MONRONEY. Protecting the public health of the country.

Mr. GRISWOLD. Where is there such a provision in the Constitution?

Senator MONRONEY. General welfare.

Mr. GRISWOLD. I had supposed it was clear that the food and drug law was based on the Commerce power and only on the Commerce power. I never heard it suggested that it was based on the general welfare clause. If it is, the general welfare clause will support this.

Senator MONRONEY. I would feel that it is based on the General Welfare Clause. I was always taught, at least, in the university, that this was the base on which it rested.

Mr. GRISWOLD. What about the fair trade acts?

Senator MONRONEY. Fair trade acts have been stricken down in some cases. Congress has held up passage of other fair trade acts.

Mr. GRISWOLD. If Congress were to pass this statute, authorizing State fair trade acts to be effective in the realm of interstate commerce, it would apply to the corner drugstore.

Senator MONRONEY. The way Congress handled it, as I recall, was by allowing the States to legislate in that field for themselves, but Congress did not pass the Fair Trade Act.

Mr. GRISWOLD. But the only reason that Congress had to act was that if Congress did not act, the State statute would be invalid because interstate commerce was involved.

Senator MONRONEY. But the Congress never moved into that field, limiting its action, I think, to that commerce within the States which they said could properly be handled by the States themselves.

Mr. GRISWOLD. It did move into the field by authorizing the State statutes to be effective to an area of interstate commerce.

Senator MONRONEY. Had Congress felt that it had power to regulate, I think it would have passed a national Fair Trade Act, rather than yielding to the States the right to govern that within their own territories?

Mr. GRISWOLD. I have no doubt that Congress could pass a national Fair Trade Act. I don't think it should. I think it would be the wrong policy. But I have no doubt that if Congress passed a national Fair Trade Act, it would be constitutional.

Senator MONRONEY. What disturbed me in your statement—and perhaps I am a little old-fashioned on this and unlettered in the law because I am not a lawyer—is where is the line of demarcation? Are there two separate types of commerce, one that is interstate and one that is purely intrastate?

I have always felt there was a clear line of demarcation, and that interstate commerce remained in the field of Federal regulation, but that certain powers were reserved to the States, including police powers and others, such as the regulation of traffic. Motor traffic has great national importance, but it has always been left to the States to regulate their speed limits and their various traffic laws and the licensing of businesses.

It has been purely within State jurisdiction.

Even our giant utility corporations, as I recall, are limited to State regulation unless they operate in more than one State. Is that not correct?

Mr. GRISWOLD. I am not sure about the utility which affects interstate commerce. An electric utility, through interconnection, almost always will affect interstate commerce.

Senator MONRONEY. Rate regulation, for instance, for the District of Columbia doesn't rest with the Federal Power Commission, it rests with the District of Columbia. I know that electric power rates, telephone rates, and other rates of that kind are regulated by the Oklahoma State Corporation Commission.

Mr. GRISWOLD. Intrastate rates are. I have little doubt that Congress could prescribe for Federal regulation of the rates, but it seems to me wise that Congress has not done so.

Senator MONRONEY. In other words, there is no distinction. We could do it if we just chose.

Mr. GRISWOLD. No, I think there is a distinction. But I think that in the case of the electric and telephone companies that the intrastate rates do so clearly affect the interstate rates; that under the *Shreveport* decision of the Supreme Court, Congress could provide for the regulation of intrastate rates if it wanted to do so. I repeat, I think it is wise not to do so in those particular cases, although as I understand it, with respect to natural gas, Congress has prescribed for Federal regulation of the rates.

Senator MONRONEY. Where it goes in interstate commerce?

Mr. GRISWOLD. Yes.

Senator MONRONEY. If gas is produced in Oklahoma, consumed in Oklahoma, it is none of the Federal Government's business according to the Supreme Court.

Mr. GRISWOLD. That is right.

Senator MONRONEY. But if it crosses the State line then it is in interstate commerce?

Mr. GRISWOLD. That is right.

Senator MONRONEY. And subject to regulation. But the rates may even be divided. In other words, if gas is produced from one well and if half of that gas goes in interstate commerce, that portion is under a rate approved by the Federal Power Commission.

The other is under a rate approved by the State corporation commission.

Mr. GRISWOLD. That is the way—

Senator MONRONEY. So we do have these distinctions. The problem of discerning and detecting where one stops and the other begins, leaves me rather puzzled. I know we have moved a long way. I understood, the discussion between you and the Senator from New Hampshire regarding the dollar measure of interstate commerce in the wage and hour bill. If a firm does a million dollars worth of business in interstate operation, it puts itself under the act and becomes interstate business merely by the dollar volume. I think it would be equally bad to apply a dollar measure to this situation. I do think the form of business can be a standard. Those whose work is primarily along interstate highways, such as Howard Johnson's, or chain motels, hotels, restaurants, variety stores, or anything of that kind with multiple ownership in more than one State are unquestionably in interstate commerce.

In an area so charged with passion and feeling, I would hesitate to try to enact a law if we are not absolutely certain of the constitutional grounds on which it rests. That was one reason why I have been exploring the possibility of enacting a measure that would clearly apply to interstate business and not be contested on that ground. Then we might start through at the same time a constitutional amendment, rewriting the 14th amendment to make sure that equal treatment for all American citizens is provided.

We may be able to get that. I would like to have you elaborate further on this 14th amendment and equal protection under the law.

Mr. GRISWOLD. The citizenship clause is the one which appeals to me more and more.

That plus *Edwards v. California* goes very far in that direction.

Senator MONRONEY. I'm a little afraid of making the licensing of any type of enterprise a basis for the law. To rest Federal authority on the licensing of plumbers, the licensing of even the sanitation in restaurants, things of that kind, seems to me to be stretching the interstate commerce clause or the 14th amendment a good way.

You spoke out rather strongly against discrimination in hospitals.

Mr. GRISWOLD. Yes.

Senator MONRONEY. I have wondered, if it is important to provide for equal facilities and nondiscrimination in motels and in eating places, why the administration in introducing this bill has no consideration for equal protection in hospitals.

Mr. GRISWOLD. I don't know. I wasn't consulted by the administration on this bill.

Senator MONRONEY. You are a member of the Civil Rights Commission.

Mr. GRISWOLD. But I'm not a part of the administration. I am a member of the Civil Rights Commission as a Republican.

Senator MONRONEY. You feel, do you not, that it is very important that there be equal treatment in hospitals?

Mr. GRISWOLD. Yes, Senator. And whether this was simply an oversight or not I don't know.

Senator MONRONEY. I don't think it was.

Senator GRISWOLD. My own view would be that they ought to be added.

Senator MONRONEY. You expressed your opinion a while ago that if funds were granted under Hill-Burton prior to 1954, the Federal Government might not require equal treatment and nonsegregation; I don't think that position is logical.

Many motels were built before 1954, and most of the investments had been made before the prohibition against separate-but-equal facilities financed with private money. I think we would be doing an injustice to hold an umbrella over public money and say they need not be desegregated.

Mr. GRISWOLD. My answer to that is based on the powers of the President. I fully agree that through action by Congress this discrimination should be eliminated.

Senator CORRON. I think, if you will pardon my interruption, that the bill itself, on page 6 indicates perhaps why the administration—certainly it isn't my duty here to defend the administration—why the administration did not include hospitals.

You notice at the bottom of page 5 it says: " * * * any other establishment where goods, services, facilities, privileges, advantages, or accommodations are held out to the public for sale, use, rent, or hire, if * * *," and then the 1, 2, 3 items under that get right back into the question of whether those enjoying or seeking to enjoy those privileges are interstate travelers, transients, whatever you wish to call them.

Hospitals are less specifically put in the bill, or all hospitals that have enjoyed Federal funds should be included. Many hospitals are pretty local. Isn't that perhaps the reason why it wasn't included?

Mr. GRISWOLD. No. They take in a good many people who get smashed up in automobile accidents who come from other States.

Senator CORRON. That is true. If that is so, it is probably covered in this bill.

Mr. GRISWOLD. I think the reason is that the administration, for one reason or another, has pitched this pretty heavily on interstate travel. I agree with Senator Cooper that it ought to be pitched on all the powers that Congress has, which includes those powers to enforce the 14th and indeed the 13th amendments.

Senator CORRON. I think we agreed the word "substantial" could well go out of this bill. The word "transient" doesn't mean too much, does it?

Mr. GRISWOLD. Yes, I think transient takes out what I call the rooming house. And the rooming house is on the whole more local than the place which deals with transients who are in motion to a greater extent.

Senator CORRON. It certainly in your opinion doesn't take out any of the resorts.

Mr. GRISWOLD. In my opinion the resorts are engaged in catering to transients.

Senator CORSON. I want to make this clear: as far as the moral obligation is concerned, I would be very proud indeed to be able to say on the floor of the Senate tomorrow that there isn't a hotel or motel or restaurant in my State, whether commerce or resort, that turns away anyone because of race, color, or creed.

But what I am discussing is just how far, as a representative of New Hampshire, the Federal Government can go into reaching into that type of place; and it is, as you very well know from your familiarity with New Hampshire—it means quite a good deal to the resort State.

Mr. GRISWOLD. As I said before, I think this is one of these things which, if people do it, they find it is very easy to do.

Senator MONROE. I think that is true, Dean; but in setting precedents and patterns we expand the concept of interstate commerce way beyond the bias or the prejudice that we are seeking to strike down, and give the Federal Government power over industries that have never been considered to be under Federal regulation.

I am not afraid of the effect of this particular law, but I am afraid that once we have broken down all barriers to Federal power by this example, then we will have nothing left in the realm of State authority, and the Federal Government will be omnipotent in licensing or controlling or passing legislation affecting any phase of American life, no matter how local.

Mr. GRISWOLD. I would make four answers to that, Senator, which seem to me to have validity.

In the first place, it seems to me quite clear that in this bill you would not be going further than Congress already has gone with respect to interstate commerce.

In the second place, it seems to me equally clear that you are dealing in this area with a problem which is peculiar, which, may I say, is peculiarly American. It might even be called the great American problem. Indeed the great book on the subject was called "The American Dilemma."

What you do with respect to resolving this problem need not mean that you do it with everything else that comes along.

This is a problem, a great problem, a crucial problem, which is on the doorstep of Congress now. Congress, it seems to me, should act clearly, strongly, and boldly, with respect to this problem, using the powers it has, providing leadership for the Nation.

One of the things the country needs in this area is good, sound, American leadership. And there is no place that it could better come from than the Congress of the United States. And I hope the Congress will provide it.

Senator MONROE. In your use of the 14th amendment, those parts that are applicable to this, you do not expand the normal governmental powers of Congress over industries or businesses that are purely local in their nature and have never been considered to be under interstate commerce. So I have no fear of any encroachment or expansion in that direction at all.

This is why I feel that it would be wise to limit the parts that rely on the interstate commerce clause to those businesses which are considered to be truly interstate in their operation, and rely on others or

on a new amendment clearly setting out what the 14th amendment apparently sought to do, which was to establish that all American citizens are entitled to equal treatment, and it is unlawful to discriminate in this way. I believe this course would be showing the American people that we are still a government of laws, and we are still basically resting our action on the Constitution.

Mr. GRISWOLD. Senator, I would clearly rely on the Constitution. I would rely on all powers given to Congress in the Constitution. It is a National Constitution, and this is a national problem, and it ought to be resolved by the National Congress in a comprehensive manner.

Senator MONRONEY. One further point before I ask Senator Thurmond's questions.

On the sanctions that are provided in the other bill, you told Senator Cotton that you felt that the President did have the right to cut out funds that had been appropriated by the Congress where segregation was practiced.

Does that mean in the particular line in which these funds were to flow, or that school funds, we will say, in impacted areas could be denied because there was discrimination in eating places or in other areas unrelated to the purpose for which the funds were appropriated?

Mr. GRISWOLD. I think that Federal funds should not—indeed cannot—constitutionally be used to implement or promote segregation. And I think it is the President's duty in administering the laws passed by Congress to take the steps that are necessary to see that Federal funds are not used to promote segregation.

And if the President finds, case by case—I think it would have to be a case-by-case situation—that if funds are disbursed to a particular Government agency and it would be used to promote segregation, it would be this duty under the constitutional oath to see that the laws are faithfully executed, to see that those funds are not disbursed.

Senator MONRONEY. I understood you to tell Senator Cotton that any of the States which have large-scale segregation would be denied Federal funds appropriated, say for schools or hospitals, or even for old-age assistance, or other public welfare programs.

Mr. GRISWOLD. No, I don't say that at all.

Senator MONRONEY. I want to get that straight.

Mr. GRISWOLD. That is why I said a case-by-case basis.

If funds for old-age assistance are administered in a State on a discriminatory basis—that is, if the State only allocates them to white persons and not to Negroes—then I should think the President might well consider withholding those funds.

Senator MONRONEY. I know of no cases like that.

Mr. GRISWOLD. Neither do I. But I would not take the position that because a State discriminates at school that old-age assistance or aid to dependent children or other things should be withheld. I only take the position that the withholding should be with respect to funds which are so utilized as to promote segregation. And a great deal of Federal expenditure is today being used so as to promote segregation.

Senator MONRONEY. That's right. But I am talking about education in impacted areas: most of those funds go to areas where the pupils themselves are the beneficiaries, and not the Governor of the State, and not the superintendent of schools.

You deny help to the children who are growing up—and many of these areas have the lowest standards of education—you deny funds to those schools, but they are not guilty of causing this. They are merely victims of a State system.

Mr. GRISWOLD. If the schools are being operated on a segregated basis, I do not believe that they should be supported by Federal funds.

If children suffer as a consequence of that, I am sorry. I would hope that the States would then have sense enough to straighten out their situation so that they would be entitled to have the benefit of Federal funds.

Senator MONRONEY. Of course, what will happen in practice is that there will be no aid to education. The other States likewise would be penalized because there is enough resistance to any expenditure for Federal aid to education to make it impossible to get support to continue programs like that.

Mr. GRISWOLD. I am not sure of that, Senator.

Senator MONRONEY. I have watched this issue for a long time. I am very much of the opinion that the programs would all go down as a result of this effort to distinguish between the States.

Mr. GRISWOLD. Be that as it may, it is my considered opinion that Federal funds should not be used to promote segregation.

Senator MONRONEY. But they are not promoting segregation. There are schools that have no other choice. I mean many of the funds go to the people who would not be eligible to go to white schools because of State policies. The local school district would be denied funds either for its white schools or its colored schools for the teachers' salaries that are supplemented by these various Federal funds.

Mr. GRISWOLD. I still take the position the Federal funds should not be used to promote segregation.

Senator MONRONEY. You think the goal is worth striking down these benefits, and the same thing would apply to appropriations to medical schools or to—

Mr. GRISWOLD. For segregated medical schools or segregated hospitals, yes.

Senator MONRONEY. How about research institutes?

Mr. GRISWOLD. Same.

Senator MONRONEY. If the research institute segregates?

Mr. GRISWOLD. I think the Federal funds should not be granted to them.

Senator MONRONEY. But if the research institute was connected with a State university, or a State hospital?

Mr. GRISWOLD. I think that Federal funds should not be granted to it.

Senator MONRONEY. I see.

Mr. GRISWOLD. There are plenty of other institutions in the country where the work can be done.

Senator MONRONEY. I am thinking of several in the South that have done a very fine job, and I am wondering whether they would be denied these funds. Although they may not choose to segregate, the university may be segregated.

Mr. GRISWOLD. I would hope that in the course of time they would come to see that the answer is that they should not operate on a segregated basis, at which place, of course, the Federal funds should be made available to them.

Senator MONRONEY. Can you name any businesses that would not be subject to Federal authority if the Congress used this as a precedent? Of course we do not have to do so, but with the expansion of the commerce clause asked for in this bill as a precedent, what industries, businesses, would be beyond the reach of Federal power?

Mr. GRISWOLD. I don't think I know of any businesses that would be beyond the reach of Federal power if Congress chooses to exercise it.

Senator MONRONEY. You feel they are not beyond it now?

Mr. GRISWOLD. Not beyond it now; that's right.

Senator MONRONEY. I feel there are many at least by custom.

Mr. GRISWOLD. I feel by custom, the local tailor shop is not covered, although even that may be subject to the Fair Labor Standards Act and some other things.

Senator MONRONEY. I have completed my questions.

I would like to ask, because I told Senator Thurmond I would, these questions that he left, and he requested that they be propounded.

If a group of people organize demonstrations which unduly burden interstate commerce, may the Congress under the commerce clause regulate that group?

Mr. GRISWOLD. I find it a little hard to see how a demonstration unduly burdens interstate commerce.

I am also aware of the provision of the first amendment which expressly provides that Congress shall make no law interfering with the right of the people peaceably to assemble and express their grievance. I feel that there is a very considerable limitation on the part of Congress to limit the people from engaging in peaceful demonstrations.

Senator MONRONEY. You think that would be overriding one of the most important constitutional declarations?

Mr. GRISWOLD. Certainly.

Senator MONRONEY. There can be, I assume we have to admit, and there is some impingement on interstate commerce by any disturbance, whether flood, fire, or demonstration.

Mr. GRISWOLD. It may mean that some people, including some interstate trucks, will have to detour and take another route. This does not seem to me to be a very serious matter compared with the first amendment guaranteeing the right of people to peacefully assemble. We must remember that right was freely engaged in in the period between 1770 and 1775 in Boston, Philadelphia, New York, and elsewhere. And it is one of the great traditional American rights.

There is a difference between peaceably assembling and demonstrating, which I conclude to mean communicating your thoughts and ideas on the one hand and intimidation on the other. If they come out with clubs, guns, rocks, and knives, then I have no doubt that steps can be taken to keep it under control. But as long as it is a business of communicating what people think and believe and want, I think it is constitutionally protected within very wide limits.

Senator MONRONEY. Senator Thurmond also wanted to ask if you felt that the word "substantial" or "substantially" affecting interstate commerce was one that limited the bill's application to only those having a large-scale participation in the interstate movement of goods.

Mr. GRISWOLD. I think it possibly limits it a little bit, but not very much, because if the bill said "affects interstate commerce" I think the proper construction of that would be "substantially affects interstate commerce." I think this is one of these questions of degree.

All questions of any importance are questions of degree. A traveling contact with interstate commerce probably isn't enough. If it affects interstate commerce, it affects it, and I doubt that "substantially" has much influence one way or another. Insofar as it has any influence it would be a slight limitation.

Senator MONRONEY. The Attorney General, as I recall when he was here, and asked questions on this subject, said "substantial" meant more than minimal.

Mr. GRISWOLD. Yes.

Senator MONRONEY. I asked what "minimal" was, and he said it was insignificant. So it is like a dog chasing his own tail; you haven't a clear definition.

Mr. GRISWOLD. A material effect on interstate commerce. I would simply leave it to "affects interstate commerce," that being a phrase which Congress has used in at least a half dozen other statutes and which is fairly well known and has been construed by the courts.

Senator MONRONEY. Senator Thurmond also wants to ask: Since what a person eats is a basic part of health, may Congress under the commerce clause direct the composition of the menu in a restaurant if this law passes? May Congress regulate the price of meals since the food has traveled in interstate commerce?

Mr. GRISWOLD. Of course in wartime, Congress has regulated prices. I assume that that is an action under the power to make war and is necessary and proper. That has been continued for a substantial period after the termination of the war, and possibly that, too, turns on the war power.

Congress does now make it illegal for businesses to agree or conspire to fix prices, and to the extent that Congress can do that, I would suppose that Congress could itself fix prices within reasonable limits.

I don't favor their fixing prices in restaurants, but my thought would be that probably Congress does have the power to fix the prices in restaurants under the commerce clause if it wants to use it.

As to prescribing the menus, I would only say that it does to some extent now. If you want oleo, you can only get it in a triangular shape. There are various other things that you can only get pursuant to the, to me, quite wise prescriptions of the Food and Drug Act which I take to be a regulation of commerce. I have always thought it to be a regulation of commerce.

Senator COTTON. I wish, as a favor to me, that you wouldn't mention that triangular oleo again, because, as a member of the Agriculture Committee of the House, I was the fellow who originated that idea, and I was ridiculed and laughed at from Maine to California, and particularly in my own State. And I haven't lived it down yet. It is very painful to me.

Mr. GRISWOLD. Sorry, Senator; we won't have any more oleo this morning.

Senator MONRONEY. Moving on, Senator Thurmond also wanted to know if, since food does move in interstate commerce, we could be required to serve meals for both Protestant and Catholic customers on Friday. I think he asked that question earlier.

Mr. GRISWOLD. I think that is out under the first amendment.

Senator MONRONEY. The Supreme Court wouldn't tolerate it.

Mr. GRISWOLD. Whether the businessman in his own interest might not want to make such meals available as in my observation they usually do, is entirely up to him. I don't think that Congress can require it.

Senator MONRONEY. Nothing in this bill we have before us deals with any form of discrimination or failure to supply such a choice of meals.

Mr. GRISWOLD. No.

Senator MONRONEY. Therefore, there is no charge of discrimination in that degree.

Would it be possible to discriminate under this bill between Polish and Yugoslavian people? It might be that some motels in certain large cities do have a reputation of serving Polish dishes and Polish food and would feel that these people might be incompatible with other nationalities because of events in the old country.

Mr. GRISWOLD. The bill says "race, color, religion, or national origin." Under the bill it would be plainly invalid to discriminate on the basis of national origin. I should think that is desirable.

Senator MONRONEY. You think it is desirable to have no discrimination?

Mr. GRISWOLD. To have no discrimination.

Senator MONRONEY. You see no reason why there is any danger of any tensions developing?

Mr. GRISWOLD. No; my guess would be that the Greeks won't like the Polish meals and won't come to get them. But if they do, I think they ought to be free to.

Senator MONRONEY. We never have much trouble having nationalities following their own restaurants and their own places with their patronage, but it has been built up on that basis.

Senator Thurmond also wanted me to ask: If Congress legislates in this field will this invalidate State laws on this subject, as happened in *Pennsylvania v. Nelson*. I don't know that case.

Mr. GRISWOLD. Yes; I think it would. One of the purposes of it—invalidate State laws against discrimination? On the contrary, I think it would support them. I think that it would invalidate State laws which provide for discrimination. But I think it would not be inconsistent with State laws which are opposed to discrimination, partly because the congressional statute would only apply in the area within which Congress has power, and the State laws would apply comprehensively.

That is a nice question, and it can be readily resolved by—indeed it was pointed out to me that it is provided in the bill that it shall not interfere with any remedy provided in State law.

Senator MONRONEY. State law shall be used first under the terms of the bill, if available.

Mr. GRISWOLD. I don't know whether it shall be used first or not. It is plainly provided, as it could have been in the *Nelson* statute but

wasn't. But the statute should not interfere with any State remedy which may be available.

Senator MONRONEY. Section—

Mr. GRISWOLD. 6(b).

Senator MONRONEY. Section 5(d) provides:

In the case of any complaint received by the Attorney General alleging a violation of section 4 in any jurisdiction where State or local laws or regulations appear to him to forbid the act or practice involved, the Attorney General shall notify the appropriate State and local officials and, upon request, afford them a reasonable time to act under such State or local laws or regulations before he institutes an action. Compliance with the foregoing sentence shall not be required if the Attorney General shall file with the court a certificate that the delay consequent upon such compliance in the particular case would adversely affect the interests of the United States, or that, in the particular case, compliance would be fruitless.

So it does provide.

Mr. GRISWOLD. This is S. 1732?

Senator MONRONEY. Yes; page 8, section 5(d).

Mr. GRISWOLD. Yes.

Senator MONRONEY. So that this would merely back up the State laws.

Mr. GRISWOLD. This would support State laws. In the absence of such a clause, it might be a hard question as to whether this occupied the field and knocked State laws out. It seems to me very important and appropriate that such provision should be included in the bill.

The whole objective, the thrust of the congressional action, would be to support State laws against discrimination, and not eliminate them.

Senator MONRONEY. Do you have any further questions, Senator?

Senator COTTON. No, other than to again say that I think you have been most patient with us and most helpful. I am sure we all appreciate it.

Senator MONRONEY. I join with my colleague, the ranking minority member. We appreciate your patience and the fullness with which you have answered these questions. Thank you for appearing before this committee. You have been very helpful.

The committee will stand in recess and will resume hearings tomorrow morning at 9:15 in this room, to hear Father Cronin, accompanied by Reverend Blake and Rabbi Blank. We will also hear Mr. Roy Wilkins of the NAACP when we complete these two witnesses.

Thank you very much.

The committee stands in recess.

(Whereupon, at 12:06 p.m. the hearing in the above-entitled matter was recessed to reconvene at 9:15 the following morning.)

CIVIL RIGHTS—PUBLIC ACCOMMODATIONS

THURSDAY, JULY 25, 1963

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee reconvened at 9:35 a.m. in room 1202, New Senate Office Building, Hon. John O. Pastore presiding.

Senator PASTORE. The committee will resume its hearing.

We are honored this morning to have as our first witness Father John F. Cronin, of the National Catholic Welfare Conference. I understand he will be accompanied by Rabbi Irwin Blank, Synagogue Council of America, and by Dr. Eugene Carson Blake, on behalf of the National Council of Churches.

Father Cronin, you may proceed in any way you like.

STATEMENT OF FATHER JOHN F. CRONIN, ASSOCIATE DIRECTOR, SOCIAL ACTION DEPARTMENT, NATIONAL CATHOLIC WELFARE CONFERENCE; ACCOMPANIED BY RABBI IRWIN BLANK, CHAIRMAN, SOCIAL ACTION COMMISSION, SYNAGOGUE COUNCIL OF AMERICA; AND DR. EUGENE CARSON BLAKE, STATED CLERK OF THE UNITED PRESBYTERIAN CHURCH IN THE U.S.A., ON BEHALF OF THE NATIONAL COUNCIL OF CHURCHES

Father CRONIN. Thank you, Senator.

Mr. Chairman and members of the committee, my name is Father John F. Cronin. I am associate director of the Social Action Department of the National Catholic Welfare Conference.

Accompanying me are Rabbi Irwin Blank, chairman of the Social Action Commission of the Synagogue Council of America, and Dr. Eugene Carson Blake, stated clerk of the United Presbyterian Church in the U.S.A., and representing the National Council of Churches as vice chairman of its Commission on Religion and Race.

It is almost unprecedented and indeed historic that I speak for the social action and racial action departments of the National Council of Churches, the National Catholic Welfare Conference, and the Synagogue Council of America.

In addition, there are a number of other groups that asked to be associated with this testimony. Only yesterday the 5-year meeting of Friends approved this statement. Indeed one of the representatives flew in from Indiana, Mr. Samuel Levering, to represent his group here.

Among the other groups participating in the statement are the American Baptist Convention; Board of Social Concerns and the

Department of Christian Social Relations of the Woman's Division of Christian Service of the Methodist Church; Christian Methodist Episcopal Church; Church of the Brethren; Disciples of Christ; Moravian Church in America; The Rt. Rev. Arthur C. Lichtenberger, presiding bishop, Protestant Episcopal Church; United Church of Christ; United Presbyterian Church, U.S.A.; The National Catholic Conference for Interracial Justice; Southern Field Service of National Catholic Conference for Interracial Justice; National Catholic Social Action Conference; National Council of Catholic Men; National Council of Catholic Women; the National Council of Catholic Youth; the National Federation of Catholic College Students; the Newman Club Federation; National Federation of Temple Sisterhoods, Union of American Hebrew Congregations; National Federation of Temple Brotherhoods, Union of American Hebrew Congregations; National Federation of Temple Youth, Union of American Hebrew Congregations; Union of American Hebrew Congregations; National Women's League, United Synagogue of America; United Synagogue Youth, United Synagogue of America; United Synagogue of America; Rabbinical Assembly; Rabbinical Council of America; Union of Orthodox Jewish Congregations of America; Women's Branch, Union of Orthodox Jewish Congregations of America; National Conference of Synagogue Youth, Union of Orthodox Jewish Congregations of America; Central Conference of American Rabbis; Reformed Church in America; National Student Christian Federation.

Racial discrimination and segregation still continue to deny persons basic human rights in this country 100 years after the issuance of the Emancipation Proclamation. There is growing determination on the part of Negroes to achieve full rights and opportunities for all people regardless of color, race or national origin, now.

Negro people, as well as the religious groups submitting this testimony, are clearly aware of the disabilities upon Spanish-speaking Americans, Indian Americans, as well as upon people of Asian background. The Supreme Court has indicated that civil rights are "present rights." The actual opportunity to exercise these long overdue rights must be made available to all people now. There is growing dissatisfaction with gradualism and promises of future progress. The heroic courage and suffering involved in organized direct action in many parts of the country are indications of the firm resolve to achieve these goals now.

The Nation faces the challenge to make full justice and equal opportunity for all people regardless of color, race or national origin, a present reality. This is the basis of achieving full freedom for all people. There can be no further delay in keeping faith with the responsibility to put the principles we profess and the obligations that we acknowledge into action. Racial discrimination and segregation continue to dim the hopes and to negate the promises set forth in the Declaration of Independence that—

all men are created equal, that they are endowed by their Creator with certain inalienable rights.

This is the time to realize these hopes. Now is the time to fulfill these promises. This requires the Nation to engage all of its resources, religious, educational, political, industrial, economic, and social to deal creatively and constructively with this problem.

The religious conscience of America condemns racism as blasphemy against God. It recognizes that the racial segregation and discrimination that flow from it are a denial of the worth which God has given to all persons. We hold that God is the creator of all men. "In the image of God created He them." Consequently in every person there is an innate dignity which is the basis of human rights. These rights constitute a moral claim which must be honored both by all persons and by the civil state. Denial of such rights is immoral.

These beliefs have been repeatedly expressed by the religious leadership of our Nation. Major religious bodies hold simply that God created all men regardless of color, race, or national origin, with equal rights and dignity. They affirm that differences among individuals stemming from such factors as heredity, education, cultural background, and opportunities do not in any way affect basic human rights. Thus they have specifically condemned racial discrimination, segregation, and prejudice as incompatible with the principles of faith in God. As supporting documents to this statement, I am attaching copies of declarations of principle by the national conferences or councils of religious bodies as well as by the general assemblies or conventions of individual denominations.

Senator PASTORE. Are they quite voluminous, Father?

Father CRONIN. No, they are relatively brief, Senator.

Senator PASTORE. Would you like them to be made part of the record at the conclusion of your statement?

Father CRONIN. If you would, I would appreciate it very much.

Senator PASTORE. Any objection?

The Chair hears none. It is so ordered.

Father CRONIN. I call the attention of this committee to the National Conference on Religion and Race held in January of this year. This conference has no precedent in American history. Nearly 700 delegates from 67 major religious bodies, Protestant, Roman Catholic, Orthodox, and Jewish, united in endorsement of "An Appeal to the Conscience of the American People," which is also appended to this statement. It is also brief, Senator.

Senator PASTORE. If there is no objection that will be made part of the record as well.

Father CRONIN. These delegates left Chicago firm in the resolution that churches and synagogues stand as one in their determination to bring about full justice and equal opportunity for all people regardless of race in the United States of America. Since the conference, activities being carried on in more than 30 cities as well as expanded and intensified interracial programs being conducted by many church and synagogue organizations are indications that this determination is being implemented.

Those human rights which men look to government to protect are called civil rights. The churches and indeed our free society as a whole, look to the State to incorporate these rights into its legal system and to insure their observance in practice.

As churches, synagogues, and religious leaders, our concern is with the purpose of civil rights legislation and with the moral principles that indicate the necessity of enacting such legislation. The knowledge and judgment of the Congress and particularly of the committees that have heard extensive testimony, will enable them

to work out the details of legislation which will insure the civil rights of all people in the Nation. Therefore, we shall discuss the purposes and principles which we believe should underlie the enactment of legislation to assure equal accommodations in public facilities. Religious people are committed to the belief that in this Nation, local, State, and National Governments deriving "their just powers from the consent of the governed" are responsible to God and to the people to maintain the freedom of all men under their respective jurisdictions, to exercise human rights with due regard for the rights of others and for the public order.

For many years most national religious bodies have by official action held their meetings only where all public accommodations and facilities in hotels or other places of meetings are open to all participants without regard to race or color. Specifically this means that room assignments, building or hotel entrances, meeting rooms, lobbies, elevators, dining rooms, and all buildings or hotel facilities or services must be available to all people regardless of race or color. Therefore, these church bodies have not been able to meet in places or localities which practice racial discrimination in public accommodations. The attached statement of policy on meetings and conventions is an illustration of the policies of many religious bodies.

This experience along with concern about the immorality of racial segregation and discrimination stated above and the increasing mobility of the American people causes churches, synagogues, and religious leaders to highlight the importance of equal access to facilities serving the general public. These include stores, restaurants, theaters, retail establishments, service shops, places for amusement and recreation, as well as hotels, motels, and lodging accommodations. In many States and cities, discrimination in such facilities is currently prohibited by law. The broadening of such prohibition by a Federal law is not a drastic step. Nor is it an invasion of property rights as some have claimed. Neither law nor morality sanction the concept of the absolute right of property. Both insist that the property owner must use his property in a socially responsible fashion. We have zoning laws, traffic ordinances, license and inspection requirements, as well as scores of other rules and regulations that currently enforce the concept of socially responsible ownership. If we can protect citizens against the injury caused by blaring television sets, surely we can give equal protection against the deep affront and humiliation caused by racial discrimination in public accommodations.

Senator, our written testimony does not go into details about various aspects of this legislation, such as the extent of coverage. I would like to digress for a moment to note one fact that seems to us to be of tremendous importance, and that is given the moral aspect of this problem, given the affront to human dignity that is implied in segregation and discrimination, to us it seems that there can be, at least from the moral viewpoint, no distinction as to major or minor discrimination as to the degree of affront, as to the extent that this involves interstate commerce, as to the financial participation of a given owner in an establishment, such as a hotel or a motel. Morally speaking, the discrimination that makes an American a second-class citizen is intolerable and untenable, regardless of whether this is the reputed

Mrs. Murphy's boarding house or the largest hotel in the United States of America.

Senator PASTORE. In other words you would make no exception.

Father CHONIN. From a moral point of view it makes no distinction to us. Thank you, Mr. Chairman.

Gentlemen, we hope that this committee will report favorably on the proposals for legislation to assure equal accommodation in public facilities. We hope also that Congress will enact them into legislation as a necessary step in the process of securing for all people the opportunity to exercise the rights guaranteed by the Constitution of the United States.

In conclusion, we stress the urgency of legislative action now. It is both a moral and legal principle that once it is determined that basic rights are being violated, the situation should be remedied at once. Equally clear is the demand that fundamental opportunities and privileges should be accorded to all without delay.

In spite of these principles, there have been times in history when even men of good will were compelled to move slowly in securing rights and privileges. No such attenuating circumstances exist today. We are in the midst of a social revolution. Please God it will remain a social revolution and not degenerate into civil chaos. But let us not underestimate the demand for justice regardless of color, race, or national origin. What is right, both in terms of basic morality and in terms of our democratic ideals, must be granted without delay. The time is past for tokenism or demands for endless patience. We must move firmly, rapidly, and courageously toward goals which our consciences assure us are right and necessary. We can do no less for God and country.

(The documents follow:)

STATEMENTS BY RELIGIOUS BODIES

African Methodist Episcopal, council of bishops, February 15-18, 1960:

"* * * In this struggle for universal acceptance of an integrated society, the Negro church plays an increasingly vital role. We have witnessed instance after instance of sacrifice, toil, and even bloodshed by ordained ministers of the Gospel determined to make a reality out of the professions of Democracy * * *"

"Our people must know that all men are created equal and that any divergence from this principle is hypocrisy, in fact, immoral. The people must likewise know that the law of the land is second only to the law of God and that to openly flout the dictates of the highest tribunal is flirting with tragedy * * *"

American Baptist Convention, May 17, 1963:

"Recognizing that segregation and discrimination separate men, and aware that being reconciled to God we are brought close to all men in the fellowship of Jesus Christ, we urge local churches to attack all forms of alienation with courage and dispatch. We reaffirm our stand that not only should all American Baptist churches be open to all followers of Jesus Christ regardless of their race but that we should earnestly and actively seek to win all unchurched persons within our community to Christ and to the fellowship of the church. We reaffirm our belief that all persons should be given the opportunity to develop the knowledge and skills needed for church leadership and that all positions of leadership within the local church and on area and national levels should be open on the basis of qualification without regard to race * * *"

American Baptist Home Mission Societies, March 23, 1960:

"In obedience to the imperative of the Gospel of Jesus Christ which recognizes no barriers to fellowship, we oppose racial segregation in all forms, and in all places. We affirm our opposition to the denial of the rights of Negroes or any minority group in matters of voting, housing, library privileges and the facilities of lunch counters. Wherever segregation appears, whether in the North or South, the East or the West, in a church or at a lunch counter, there is a denial

of Christian love and justice and of the democratic rights of citizens. To affirm this is to presume to judge others but to acknowledge a moral principle rooted in our biblical faith by which all are judged * * *."

Christian Methodist Episcopal, annual conference, 1958:

"* * * Commitment to the conviction that the best form of government is a government of the people, by the people and for the people and dedication to the determined effort to secure for every American citizen full political franchise and freedom from fear and want * * *."

"That every attempt be made to arouse the conscience of America to her responsibility of practicing at home the democracy she preaches abroad, of making possible and guaranteeing to all minority groups at home the freedom she offers the oppressed peoples of other lands, of assuring those victims of prejudices, discrimination, and oppression within her own borders the same opportunities she affords the refugees from the land of the Iron Curtain * * *."

"That we use techniques based solely on passive resistance such as work stoppage, economic boycotts, slowdowns, sitdown strikes, picket lines, mass demonstrations, and political unity wherever there is a threat or attempt to deprive our people of enjoying their full rights as citizens of our Nation * * *."

Church of the Brethren, general brotherhood board, March 24, 1960:

"Therefore, we, the general brotherhood board, resolve:

"1. That we believe discrimination against racial, cultural, and religious minorities is morally wrong;

"2. That action to remove this discrimination is imperative, both in the light of the Christian ethic and in the spirit of our democratic tradition;

"3. That we see our first obligation to seek change through honest discussion and negotiation, but, such methods failing, we regard peaceful, nonviolent, direct action as an appropriate Christian witness for those whose consciences so lead them * * *."

Disciples of Christ, United Christian Missionary Society, board of trustees, June 1960:

"FUNDAMENTAL JUSTICE VERSUS LEGALITY"

"The question is not one of mere legality, however. One must raise the question of the fundamental justice of the issue which lies beyond the sit-ins. Do not Negroes have the same right to be treated with dignity and decency as whites? Are we not all, Negro and white, brothers and neighbors under God's creation and does not our Master say to us: 'Thou shalt love thy neighbor as thyself'? Are we not then, as Christians, committed to the principle of equitable treatment of all people regardless of race? Must we not, therefore, not only admit, but insist upon and work toward the rapid removal of the patterns of segregation which deny fundamental dignity as human beings to certain persons because of accidents of birth? The plain fact is, however, that Christians on the whole have done almost nothing to alleviate the situations in which Negroes have found themselves. We have, furthermore, by our own acquiescence and silence supported those who by restrictive legislation and intimidation have stood in the way of Negroes achieving equality of opportunity. One might wish, as some have, that this whole issue had never arisen—that Negroes had been content to accept an inferior status in our society—that they had not upset the even tenor of our privileged white existence. One might wish that they had never heard of nonviolent resistance to evil, but they have. Now Christians must face the issue where it is and decide whether the fundamental justice of their protest overrides possible questions of legality."

Evangelical United Brethren, general conference, October 9-17, 1958:

"As Christians we are ashamed of the treatment accorded minority races in our Nation. The New Testament teaches that God is no respecter of persons, and men are to be treated with respect and dignity."

"We, therefore unalterably oppose all practices of racial segregation."

"Christian love is more than sentiment. It is active good will, redemptive kindness, patient goodness. We desperately need this Christian love in this present hour of friction and distrust among the races * * *."

The Five Years Meeting of Friends, July 14-21, 1960:

"We humbly recognize that our society as a whole has not been true to this basic Christian belief. Too often pioneering in racial equality has been left to the few. But in this day of racial crisis every member of the Society of Friends should be concerned that all races have equal opportunity to participate with one another in worship, education, housing, employment, and voting, and to join in our fellowship."

"The Christian way to combat injustice is to act in the spirit of love and forgiveness which Christ both lived and taught, admonishing us 'Love your enemies, bless them that curse you, do good to them that hate you, and pray for them that despitefully use and persecute you.' (Matt. 5: 44) In recent months and years our Negro brothers in Christ have practiced to a remarkable degree these precepts of the Master as they have opposed injustice nonviolently and in the spirit of Christian love. We are grateful to them for their leadership in demonstrating the relevance of Christ's teaching in our time and in our own communities.

"Race prejudice and hatred are spiritual and moral diseases not confined to any one section of one country or to any one nation. In God's world there is no place for discrimination or prejudice because of racial or national origin, economic circumstance or religious belief. We believe that there is something in every man which can respond to the love of God, and that every man has the God-given right to walk over the earth in dignity and self-respect. We have the opportunity and the obligation to help secure this right for all."

The Methodist Church, general board of Christian concerns, division of human relations and economic affairs, March 18, 1960:

"We believe that God is Father of all peoples and races, that Jesus Christ is His Son, that all men are brothers, and that man is of infinite worth as a child of God.

"To discriminate against a person solely upon the basis of his race is both unfair and un-Christian. Every child of God is entitled to that place in society which he has won by his industry and character. To deny him that position of honor because of the accident of his birth is neither honest democracy nor good religion."

The Methodist Church, woman's division of Christian service of the board of missions, January 1962:

"We believe—

"1. We believe that God is the Father of all people and all are his children in one family.

"2. We believe that the personality of every human being is sacred.

"3. We believe that opportunities for fellowship and service, for personal growth, and for freedom in every aspect of life are inherent rights of every individual."

Moravian Church in America, southern province, provincial synod, 1959:

"THE CHURCH AS A BROTHERHOOD

"The Church of Jesus Christ, despite all the distinctions between male and female, Jews and non-Jews, white and colored, poor and rich, is one in its Lord. The *Unitas Fratrum* recognizes no distinction between those who are in the Lord Jesus Christ. We are called to testify that God in Jesus Christ brings His people into being out of 'every race, kindred and tongue,' pardons sinners beneath the cross and brings them into one body. We oppose any discrimination in our midst because of race or standing, and we regard it as a commandment of the Lord to bear public witness to this and to demonstrate by word and deed that we are brothers and sisters in Christ."

National Baptist Convention, U.S.A., Inc.:

"Almost any American tourist of Europe and other eastern countries meets with the question of the attitude of America toward the intermingling of the races composing the population of the United States.

"Some of these peoples are quite 'scathing' in their remarks concerning the American claims of democracy and Christianity on the one hand and the treatment America permits to be accorded her minority peoples on the other.

"For many years Negroes have been puzzled as to the attitude they should adopt regarding the sincerity of the American claim of the policy of 'Justice to all and special privilege to none.'

"When, however, the Supreme Court issued her memorable decision outlawing segregation in the public schools, the race took heart and reorganized her thinking with regard to America being in truth 'The land of the free and the home of the brave.'

"Negroes love America and entertain no bitterness toward her despite the vicious wrongs some commit against them in certain sections of the country. They have too long agonized in prayer for her security. They have given too freely of their blood to vouchsafe her institutions—not to love her with undying

devotion. They believe the Supreme Court on May 17, 1964, justified the faith, the hope, and the love they exercise toward this country."

Philadelphia Yearly Meeting of the Religious Society of Friends, 1961:

"The Religious Society of Friends recognizes the divine spark in every human being and we are deeply concerned with the racial and religious discrimination that exists in our local communities. We are equally concerned with the suffering, the waste of talents and the antagonisms which result from segregation and which block spiritual and cultural growth. Under these conditions, the majority group as well as the minority group suffers.

"In our country today, individuals and groups are set apart from the main stream of American life on the basis of their religious background, the color of their skin, or the country of their birth. In large ways and small, such persons are denied full participation in our community life.

"We believe that everyone should have real equality of opportunity in securing an education, in finding employment best suited to their abilities or in buying or renting a home. In all of these areas of life, minority groups now repeatedly experience frustration and humiliation. If American society is really motivated by religious and democratic ideals, there is no place for discrimination. * * *

Presbyterian Church in the United States, general assembly, May 4, 1960:

"III. RIGHTS OF CITIZENS

"* * * recognizes the dignity of every human being and encourages the concept of life, liberty, and the pursuit of happiness for all peoples, the assembly strongly urges laymen and ministers, as Christian citizens, to redouble their efforts to right the wrongs, presently suffered by individuals and groups because of race, creed, or nationality * * *."

National Council of the Protestant Episcopal Church, February 1961:

"V. It is the function and the task of the church to set spiritual and moral goals for society, and to bear witness to their validity by the witness of her own life. The church should not only insure to members of all races full participation in worship everywhere; she should also stand for fair and full access to education, housing, social, and health services, and for equal employment opportunities, without compromise, self-consciousness, or apology. In these ways the church will demonstrate her belief that God hath made of one blood all nations of men for to dwell on the face of the earth."

Reformed Church in America, credo on race relations, general synod, June 7, 1967:

"1. We believe that the problem of race is a problem of human relations. We believe that the Scriptures of the Old and New Testaments provide the final authority for all matters of human relations. We believe that all problems of human existence are resolved in the love for God above all, and for our neighbor as ourselves. We further believe that such love has been fully revealed to us in the life and work of Jesus Christ, our Lord and Saviour; and that the grace to participate in that love is readily available through the Holy Spirit by faith. We believe that the primary function of the Church of Jesus Christ is to witness to that love to all people in every walk of life."

Southern Baptist Convention, Christian life commission, February 20-March 1, 1960:

"* * * The Commission wishes to again reaffirm its historic emphasis upon the Biblical principle of the value of human personality as taught by our Lord. In the light of recent efforts on the part of Negro citizens in many areas in securing equal rights, especially the right to vote, the Commission urges our Southern Baptist people to make use of every opportunity to help Negro citizens to secure these rights through peaceful and legal means and to thoughtfully oppose any customs which may tend to humiliate them in any way."

United Church of Christ, general synod, July 1961:

"* * * We call upon our churches and their members to pray and work for the elimination of segregation and discrimination in every aspect of our common life, beginning with each local church, but also devoting special efforts to desegregate church-related institutions, all public housing, public accommodations and services; and to guarantee to all our people equal access to the polls, to employment opportunities, and to legal justice."

United Lutheran Church in America, board of social missions and executive board, 1962:

"1. God the Father is the Creator of all mankind. We are made in His likeness. In the light of the common creation of all men, differences in physical characteristics or social background are only of incidental importance.

"2. God condemns all injustice, all hatred, all abuse and persecution of men. His judgment is revealed in the moral sickness of all men and in the torn fabric of our common lives.

"3. God's atoning grace embraces every man. Through his Son, Jesus Christ, God offers redemption to all. Christ died for all mankind. All men have equal worth in God's sight * * *"

United Presbyterian Church, U.S.A., Standing Committee on Church and Society, May 22, 1962:

"* * * The 174th general assembly calls upon every United Presbyterian to search his heart and with God's help seek to root out every trace of prejudice, bias, and hostility to other men who are different in race or culture from himself, and to bring a new attitude of loving acceptance not only into the pew on Sunday but into the office, shop, school, and neighborhood on Monday * * *"

National Catholic Conference for International Justice, August 27, 1961:

"CIVIL RIGHTS

"God created man a social being. By His will our Government exists to protect the common good and the basic rights of man. We find that some of our countrymen in weakness sometimes deny these rights to others.

"Be it resolved, That, as the right to vote is a fundamental instrument of citizenship in our democracy, we condemn the denial of that right on the basis of race, creed, or color, whether openly or by governmental subterfuge, as mockery of our Constitution."

STATEMENT

SYNAGOGUE COUNCIL OF AMERICA, 235 FIFTH AVENUE, NEW YORK, N.Y.

"Have we not all one Father? Hath not one God created us?" Malachi 2: 10. The ethical precepts of the prophets of Israel are universal, applicable to every human being regardless of race, religion, or creed.

Centuries ago our rabbinic sages, in commenting on the verse from Genesis describing the divine creation of man from the dust of the earth, observed that God took earth from all corners of the world with which to fashion man so that no man could claim superiority because of the color of his skin.

It is our desire to integrate human beings into a whole society, free from destructive divisiveness and delusions of superiority. Racism has no place in Jewish belief or practice.

Our all pervasive concern is the advancement of our horizon of American democratic living by providing the maximum conditions for growth, personal fulfillment and ability to contribute to the strengthening of community life to every citizen of our country. That which stultifies growth of the individual, or of our country, must be eliminated. Where there is racial or religious discrimination there is also personal suffering, a breakdown of communications, community and national stagnation and decline, economic disability and reduction of our effectiveness in the realm of international affairs.

We cannot hold out the hope of a brighter future to the oppressed peoples of the world, nor can we speak of the blessing of democracy to the developing nations of the world, if we are not prepared to eliminate racism and religious bigotry from our own shores.

It is our fervent hope that religious leaders of all races, will affirm and support those efforts now being made within our country to eliminate racial and religious bigotry, as well as condemn those individuals and groups who seek to perpetuate these evils.

THE CHURCHES AND SEGREGATION¹

AN OFFICIAL STATEMENT AND RESOLUTION ADOPTED BY THE GENERAL BOARD OF THE NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE UNITED STATES OF AMERICA IN CHICAGO, ILL., JUNE 11, 1952

INTRODUCTION

As Christian disciples work together, their redemptive power in society is heightened. That power is released most transformingly when, in motive and method, it flows directly from the mandates of our Lord. In this statement, the National Council of the Churches of Christ in the U.S.A. set forth some of the clear implications of Christ's command, "Thou shalt love thy neighbor as thyself."

I. THE PATTERN OF SEGREGATION

Segregation is the externally imposed separation or division of individual persons or groups, based on race, color, or national origin. It is practiced, with some difference of emphasis, in all sections of the country. In many places, segregation is established and supported by law. In others, it is almost as rigidly enforced by social custom and economic practices.

Segregation is an expression of the superiority-inferiority attitudes concerning race, color, or national origin held tenaciously by vast numbers of Americans. Segregation is not only the expression of an attitude; it is also the means by which that attitude is transmitted from one generation to another. Children in our society, observing minorities as we segregate them, cannot easily escape the inference that such minorities are inferior.

Moreover, segregation as practiced in the United States probably has more effect on the attitudes of the young than the formal teachings of the schools about democracy or of the churches about Christian brotherhood.

Segregation subjects sections of our population to constant humiliation and forces upon them moral and psychological handicaps in every relation of life. Still more devastating is the moral and spiritual effect upon the majority.

Segregation has meant inferior services to the minority segregated. The theory of "separate but equal" service does not work out in practice; segregation is always discriminatory. Discrimination sets apart those discriminated against so that in effect, they are segregated spiritually and psychologically, if not always physically.

Segregation as applied to our economic system denies to millions of our people free access to the means of making a living and sets for them insurmountable obstacles in their efforts to achieve freedom from want.

At all times and particularly in great crises, segregation makes it impossible to utilize fully large sections of our manpower. It seriously limits the contributions of racial and cultural minority groups to the ongoing life of our people in every aspect of our national existence.

Segregation handicaps our Nation in international relationships. At a time when the United States has come to play a leading role among the nations of the free world, our racial practices which are publicized abroad are made the basis of charges of hypocrisy against the Nation. These charges reverberate throughout the world in a period when the largely submerged nonwhite groups are becoming self-conscious, striving for recognition of their dignity, for autonomy and equal opportunity. The world community which we are seeking to build must rest on genuine respect for the worth of persons who are created equally the sons of God.

Large numbers of our citizens are being disfranchised and discriminated against as a result of the fears and mutual suspicions engendered by the pattern of segregation. These cause unnecessary confusion in dealing with important public issues, create unreal political divisions and give rise to a type of political appeal that threatens our democracy and democratic institutions.

Segregation increases and accentuates racial tension. It is worth noting that race riots in this country have seldom occurred in neighborhoods with a racially mixed population. Our worst riots have broken out along the edges of and in rigidly segregated areas.

¹ "The Churches and Segregation" is a revision of an official statement titled "The Church and Race Relations" approved by the Federal Council of the Churches of Christ in America at a special meeting in Columbus, Ohio, Mar. 5-7, 1946.

Above all, the principle of segregation is a denial of the Christian faith and ethic which stems from the basic premise taught by our Lord that all men are created the children of God. The pattern of segregation is diametrically opposed to what Christians believe about the worth of persons and if we are to be true to the Christian faith we must take our stand against it.

II. THE CHURCHES AND THE PATTERN OF SEGREGATION

The pattern of segregation in the United States is given moral sanction by the fact that churches and church institutions, as a result of insensitiveness and social pressure, have so largely accepted this pattern in their own life and practice.

A. Segregation in church practice

While the pattern of segregation is too common in our public education at all levels, it is even more general in the churches in worship and fellowship. There are large areas of the public education field where racial separation is not practiced and only a relatively few churches which are racially inclusive in practice.² Furthermore, the pattern of segregation in public education appears to be changing more rapidly than in the churches.

While there are some exceptions among the communions and in certain interdenominational agencies, notably councils of churches, nevertheless, religious bodies are generally divided on a racial basis, in national organizations, in regional bodies, and in local congregations. The acceptance by the churches of this pattern of segregation is so prevalent that fellowship between white and nonwhite Christians in the United States is frequently awkward and unsatisfactory.

It should be noted, however, that the communions have expressed an increasing concern for the elimination of segregation from the churches and society. Since the statement titled "The Church and Race Relations" was adopted by the Federal Council of Churches in 1946, the national bodies of 20 communions have issued statements that sanction the practice of an inclusive ministry to all people without regard to race, color, or national origin. Nine of these national church bodies have renounced the pattern of segregation both in their own fellowship and in society; two have placed emphasis on the elimination of discrimination; and nine have indicated their concern for justice and opportunity for all people. In addition to defining denominational policy, these statements have served as a basis for launching denominational programs for the improvement of racial and cultural relations.

While members of racial groups other than the one to which a majority of the congregation belongs are not absolutely barred by a rule from attendance,

FACTS ABOUT SEGREGATION IN THE CHURCHES

"There are approximately 6,500,000 Protestant church members among Negroes. About 6 million are in separate Negro denominations. Therefore, from the local church through the regional organization to the national assemblies over 90 percent of the Negroes are without association in work and worship with Christians of other races except in interdenominational organizations which involve a few of their leaders. The remaining 500,000 Negro Protestants, about 10 percent, are in denominations predominantly white. Of these about 95 percent, judging by the surveys of six denominations, are in segregated congregations and are in association with their white denominational brothers only in national assemblies, and, in some denominations, in regional, State, or more local jurisdictional meetings. The remaining 5 percent of the 10 percent in white denominations are members of local churches which are predominantly white. Thus only one-half of 1 percent of the Negro Protestant Christians of the United States worship regularly in churches with fellow Christians of another race. This typical pattern occurs, furthermore, for the most part in communities where there are only a few Negro families and where, therefore, they are only on an average two or three Negro individuals in the white churches." ("Racial Policies and Practices of Major Protestant Denominations," by Frank Loescher, research study, 1946. Available in manuscript form at the office of the Department of Racial and Cultural Relations, the National Council of Churches, 297 Fourth Avenue, New York 10, N.Y.)

The statistical table found on p. 68, "The Protestant Church and the Negro," by Frank Loescher, published in 1948, indicates that 800 churches out of 17,900 to whom questionnaires were sent, reported Negro participation in predominantly white churches. This indicates that 4.8 percent of the churches in six communions reported Negro participation.

In a cooperative study of 13,597 churches, 1,331 predominantly white churches in 3 communions reported membership or attendance by persons of one or more racial minority groups. This indicates that 9.8 percent of the total number of churches in three communions are racially inclusive in membership or attendance (1952). (See article titled "Patterns of Racial Inclusion Among the Churches of Three Protestant Denominations" by Alfred S. Kramer, in *Phylon*, the Atlanta University Review of Race and Culture, third quarter, 1955.)

In many local churches the self-consciousness which their presence arouses bars them from freedom to worship in fellowship, and even from the initial contact.

At the level of the local church there are some encouraging examples of pastors, church officers, and congregations who have come to grips with the dilemma of the segregated church. There are congregations and especially Sunday church schools and vacation church schools which are racially inclusive, and there are other church groups in the process of becoming so. These efforts need to be more widely known and the methods employed shared more fully with others.

A church located in a community in which the population is changing has a responsibility to serve the people of that community without regard to race, color, or national origin. National and regional denominational bodies as well as councils of churches should encourage local congregations to consider this responsibility and cooperate with them in achieving this type of service.

However, the local church faces the difficult, although not insurmountable, obstacle of segregated housing in both the city and the suburbs. When a church is located in a community where segregated housing limits the population to one racial or cultural group, the people whom the church serves will tend to be limited to that racial or cultural group. Churches and councils of churches should, therefore, take definite steps to help create unsegregated residential communities where normal day-to-day relationships will develop among people of all races, colors, creeds, and national origins.

B. Racial practices in church hospitals similar to those in nonchurch hospitals

The racial practices of hospitals controlled by or affiliated with communions are little different from such practices in other hospitals. Negro nurses, doctors, and patients are excluded from many church hospitals just as they are from similar institutions secularly controlled. To some degree this exclusion applies to other minority racial and cultural groups. The correction of this situation is complicated by the fact that in many instances these church hospitals have lost their close organic connection with the communions and have come more and more to accept the standards of the secular community. Some are private institutions no longer connected with the church even though their religious or denominational names still imply such a connection. However, a number still maintain a more or less definite relationship with the communions.

C. Segregation in church-related educational institutions

Church-related educational institutions established for constituencies predominantly white are somewhat less segregated than hospitals. There are church-related schools at all educational levels which have always maintained the practice of admitting students without regard to race, color, creed, or national origin and there are others which have adopted this practice. Nevertheless, there are still large numbers of our church schools which would no more depart from the practice of exclusion than would secular institutions under similar circumstances. Some of these schools resort to devices to avoid accepting qualified Negro, Jewish, or Oriental students. Even after admission, some schools fail to fulfill the obligation of completely integrating members of minority racial and cultural groups into the life of the institution.

D. Theological institutions frequently practice exclusion

The changes which have been made recently by a number of theological seminaries in their policies and practices so as to admit students without regard to race, color, or national origin, are commendable. However, there are still others which practice exclusion on the basis of race, color, or national origin. In view of this, it is not strange that large numbers of our white ministers are uncertain and lack concern about race relations. On the other hand, ministers who are members of minority groups frequently doubt the sincerity of their brethren of the majority group. Fellowship among ministers in this country is frequently strained and unsatisfactory. It will continue to be so as long as we practice segregation to any extent in ministerial training. Association among persons of different racial groups, in their training, should be a vital part of the education of ministers.

E. The churches and employment practices

The employment of ministers in a segregated pattern continues the strained and unsatisfactory fellowship which often exists in the theological institutions. With few exceptions, ministers who are members of racial and cultural minority

groups must serve congregations which are composed of members of their own groups. This system of employment tends to perpetuate the segregated local church. Ministers should be called or appointed to churches primarily on the basis of character, ability, and qualifications set up by the communion or local church, rather than on the basis of race, color, or national origin.

Moreover, it is not customary for State, area, or national denominational and interdenominational boards and agencies to employ members of minority racial and cultural groups as professional or executive staff for service at home and abroad. The exception to this is occasional employment in work involving either their own particular group of race relations. It is noted with satisfaction that the communions and the interdenominational agencies now employ persons rather generally in secretarial and clerical positions on the basis of character and ability, without regard to race, color or national origin. What has been accomplished in this regard should be adopted as a pattern in the employment of professional or executive staff. The Christian witness of the churches which calls for fair employment practices in the community, State, and Nation is immeasurably strengthened by a demonstration of fair employment practices in the life and work of the churches.

F. The responsibility of the churches to eliminate segregation

Christians in the United States, more than ever before, honestly desire that quality of Christian fellowship which brings to the total church the gifts of all for the spiritual enrichment of each. Efforts directed toward such spiritual enrichment are frequently confused and ineffectual because of the pattern of segregation which defeats goodwill. Many persons find themselves frustrated when they attempt to live out their Christian impulses within a racially segregated society.

The church, when true to its higher destiny, has always understood that its gospel of good news has a two-fold function; namely:

To create new men with new motives;

To create a new society wherein such men will find a favorable environment within which to live their Christian convictions.

The churches in the United States, while earnestly striving to nurture and develop individuals of goodwill, have not dealt adequately with the fundamental pattern of segregation in our society which thwarts their efforts. This must be corrected. The churches should continue to emphasize the first function. In addition, they must launch a more comprehensive program of action in fulfillment of the second function. This is imperative now.

III. THE NATIONAL COUNCIL AND SEGREGATION

The communions and the interdenominational agencies have faced this question and taken action on it. A number of the interdenominational agencies which merged to form the National Council of Churches had renounced the pattern of segregation based on race, color, or national origin as unnecessary and undesirable and a violation of basic Christian principles. A number of the communions have adopted the 1946 statement of the Federal Council of Churches and others have adopted statements of their own on this question.

The National Council of the Churches of Christ in the U.S.A. in its organizational structure and operation, renounces and earnestly recommends to its member churches that they renounce the pattern of segregation based on race, color, or national origin as unnecessary and undesirable and a violation of the Gospel of love and human brotherhood. While recognizing that historical and social factors make it more difficult for some churches than for others to realize the Christian ideal of nonsegregation, the council urges all of its constituent members to work steadily and progressively towards a nonsegregated church as the goal which is set forth in the faith and practice of the early Christian community and inherent in the New Testament idea of the Church of Christ. As proof of our sincerity in this renunciation, the National Council of Churches will work for a nonsegregated church and a nonsegregated community.

IV. THE CHURCHES SHOULD ASCERTAIN THE FACTS ABOUT THEIR OWN PRACTICES

We urge that in studying their own practices, the churches use the following statement of principles as a standard of measurement:

A. Membership

All persons who accept Christ as Lord and Master and the doctrinal standards of the communion ought to be invited and welcomed into membership of our communion's parish churches.

B. Fellowship

Christian fellowship means that all who accept Christ as Lord and Master are united by bonds of brotherhood which transcend race, color, or national origin.

C. Worship

Worship opportunities inclusive of all groups ought to be available both regularly and frequently, so as to make such worship a normal expression of our common worship of God without self-consciousness or embarrassment.

D. Outreach of the minister

The outreach of the minister should be inclusive. This means that his services ought to be available to persons of all groups in the community without discrimination.

E. Educational and welfare services

Church-related schools, colleges, hospitals, homes for children and the aged, and other institutions have a responsibility to serve persons who are members of their communion without regard to race, color, or national origin.

Church camps, conferences, and projects conducted for the purpose of training persons for leadership or participation in the program and activities of the churches have a responsibility to serve the churches and their members without regard to race, color, or national origin.

F. Employment

Christian churches demonstrate belief in the essential worth of persons because they are the children of God when they provide full opportunities for the employment at all levels and on the same basis of character and ability, of all persons found in the membership of their communion, including those from racial and cultural minorities.

V. THE CHURCHES SHOULD ELIMINATE SEGREGATION FROM THEIR OWN PRACTICES

If the churches would remove the validity of the charge implied by the world when it says "Physician, heal thyself," they should act promptly and decisively to eliminate segregation from their own practices, taking steps to formulate plans of action based on answers to the following essential questions:

A. Membership

How many churches are there in our communion in which people are not welcome to membership because of race, color, or national origin? What actions are necessary to correct this situation?

B. Fellowship

Does racial segregation or exclusion create a chasm which places profound limitations upon Christian fellowship within the life of a geographical community? If so, what should be done to remove these limitations?

C. Worship

What is the extent of racial segregation or exclusion in the services of worship provided by our communion? What steps are necessary to correct this situation?

D. Outreach of the Minister

Is the outreach of the minister inclusive of all people? Are his services available to persons of all groups in the community?

E. Educational and welfare services

What is the extent of racial segregation or exclusion in the practices of schools, colleges, seminaries, hospitals, homes, camps, young people's confer-

ences, and similar institutions affiliated with our communion? What are the steps that should now be authorized and carried out by the responsible boards of the communion to rectify these practices?

F. Employment

Do the local, State, and area organizations, national boards, and general ecclesiastical offices of our communion provide opportunities for employment on the basis of character and ability without regard to race, color, or national origin? If not, what administrative procedures should be proposed within our communion to bring employment practices within its entire life into conformity with the ideas of a "nonsegregated church and a nonsegregated community?"

VI. THE CHURCHES SHOULD HELP TO BELIEVE COMMUNITY TENSIONS

Churches, having chosen to renounce the pattern of segregation as a violation of the Gospel of love which is committed unto them, and having outlined steps by which that pattern shall be eliminated from their own practices, should at the same time direct their attention to the community, at the national, State, and local levels.

In order that the community may sense the transforming power of organized religion in relieving community tensions arising from the pattern of segregation, the churches should assume responsibility for dealing with such questions as discrimination in employment, housing, education, health, and leisure-time activities. We should cooperate with other organizations in the formulation and execution of a communitywide plan of action to eliminate patterns of segregation and to change the policies and practices that create tensions.

OUR HOPE AND STRENGTH

We thank God, especially in a time when so many men are estranged from Him and from one another, that He has created us "of one blood" and through Christ has brought Christians into one family. It was by God's power that Christ's disciples lived and worked in love. This faith that Christians are "one body in Christ," commits us inevitably to the task of transcending barriers of race, color, and nationality in our churches and in our communities until we may, by His Grace, one day demonstrate our faith that "we are members one of another."

DISCRIMINATION AND THE CHRISTIAN CONSCIENCE (THE CATHOLIC BISHOPS OF THE UNITED STATES)

Fifteen years ago, when this Nation was devoting its energies to a world war designed to maintain human freedom, the Catholic bishops of the United States issued a prayerful warning to their fellow citizens. We called for the extension of full freedom within the confines of our beloved country. Specifically, we noted the problems faced by Negroes in obtaining the rights that are theirs as Americans.

The statement of 1943 said in part:

In the providence of God there are among us millions of fellow citizens of the Negro race. We owe to these fellow citizens, who have contributed so largely to the development of our country, and for whose welfare history imposes on us a special obligation of justice, to see that they have in fact the rights which are given them in our Constitution. This means not only political equality, but also fair economic and educational opportunities, a just share in public welfare projects, good housing without exploitation, and a full chance for the social advancement of their race.

In the intervening years, considerable progress was made in achieving these goals. The Negro race, brought to this country in slavery, continued its quiet but determined march toward the goal of equal rights and equal opportunity. During and after the Second World War, great and even spectacular advances were made in the obtaining of voting rights, good education, better paying jobs, and adequate housing. Through the efforts of men of good will, of every race and creed and from all parts of the Nation, the barriers of prejudice and discrimination were slowly but inevitably eroded.

Because this method of quiet conciliation produced such excellent results, we have preferred the path of action to that of exhortation. Unfortunately, how-

ever, it appears that in recent years the issues have become confused and the march toward justice and equality has been slowed, if not halted in some areas. The transcendent moral issues involved have become obscured, and possibly forgotten.

Our Nation now stands divided by the problem of compulsory segregation of the races and the opposing demand for racial justice. No region of our land is immune from strife and division resulting from this problem. In one area, the key issue may concern the schools. In another it may be conflicts over housing. Job discrimination may be the focal point in still other sectors. But all these issues have one main point in common. They reflect the determination of our Negro people, and we hope the overwhelming majority of our white citizens, to see that our colored citizens obtain their full rights as given to them by God, the Creator of all, and guaranteed by the democratic traditions of our Nation.

There are many facets to the problems raised by the quest for racial justice. There are issues of law, of history, of economics, and of sociology. There are questions of procedure and technique. There are conflicts in cultures. Volumes have been written on each of these phases. Their importance we do not deny. But the time has come, in our considered and prayerful judgment, to cut through the maze of secondary or less essential issues and to come to the heart of the problem.

The heart of the race question is moral and religious. It concerns the rights of man and our attitude toward our fellow man. If our attitude is governed by the great Christian law of love of neighbor and respect for his rights, then we can work out harmoniously the techniques for making legal, educational economic, and social adjustments. But if our hearts are poisoned by hatred, or even indifference toward the welfare and rights of our fellow men, then our Nation faces a grave internal crisis.

No one who bears the name of Christian can deny the universal love of God for all mankind. When our Lord and Savior, Jesus Christ, "took on the form of man" (Philippians 2, 7) and walked among men, He taught as the first two laws of life the love of God and the love of fellow man. "By this shall all men know that you are my disciples, that you have love, one for the other" (John 13, 35). He offered His life in sacrifice for all mankind. His parting mandate to His followers was to "teach all nations" (Matthew 28, 19).

Our Christian faith is of its nature universal. It knows not the distinctions of race, color, or nationhood. The missionaries of the church have spread throughout the world, visiting with equal impartiality nations such as China and India, whose ancient cultures antedate the coming of the Savior, and the primitive tribes of the Americas. The love of Christ, and the love of the Christian, knows no bounds. In the words of Pope Pius XII, addressed to American Negro publishers 12 years ago, "All men are brothered in Jesus Christ; for He, though God, became also man, became a member of the human family, a brother of all" (May 27, 1946).

Even those who do not accept our Christian tradition should at least acknowledge that God has implanted in the souls of all men some knowledge of the natural moral law and a respect for its teachings. Reason alone taught philosophers through the ages respect for the sacred dignity of each human being and the fundamental rights of man. Every man has an equal right to life, to justice before the law, to marry and rear a family under human conditions, and to an equitable opportunity to use the goods of this earth for his needs and those of his family.

From these solemn truths, there follow certain conclusions vital for a proper approach to the problems that trouble us today. First, we must repeat the principle—embodied in our Declaration of Independence—that all men are equal in the sight of God. By equal we mean that they are created by God and redeemed by His Divine Son, that they are bound by His law, and that God desires them as His friends in the eternity of Heaven. This fact confers upon all men human dignity and human rights.

Men are unequal in talent and achievement. They differ in culture and personal characteristics.

Some are saintly; some seem to be evil; most are men of good will, though beset with human frailty. On the basis of personal differences we may distinguish among our fellow men, remembering always the admonition: "Let him who is without sin . . . cast the first stone . . ." (John 8, 7). But discrimination based on the accidental fact of race or color, and as such injurious to human rights regardless of personal qualities or achievements, cannot be recon-

cilled with the truth that God has created all men with equal rights and equal dignity.

Secondly, we are bound to love our fellow man. The Christian love we bespeak is not a matter of emotional likes or dislikes. It is a firm purpose to do good to all men, to the extent that ability and opportunity permit.

Among all races and national groups, class distinctions are inevitably made on the basis of like mindedness of a community of interests. Such distinctions are normal and constitute a universal social phenomenon. They are accidental, however, and are subject to change as conditions change. It is unreasonable and injurious to the rights of others that a factor such as race, by and of itself, should be made a cause of discrimination and a basis for unequal treatment in our mutual relations.

The question then arises: Can enforced segregation be reconciled with the Christian view of our fellow man? In our judgment it cannot, and this for two fundamental reasons.

(1) Legal segregation, or any form of compulsory segregation, in itself and by its very nature imposes a stigma of inferiority upon the segregated people. Even if the now obsolete court doctrine of "separate but equal" had been carried out to the fullest extent, so that all public and semipublic facilities were in fact equal, there is nonetheless the judgment that an entire race, by the sole fact of race and regardless of individual qualities, is not fit to associate on equal terms with members of another race. We cannot reconcile such a judgment with the Christian view of man's nature and rights. Here again it is appropriate to cite the language of Pope Pius XII: "God did not create a human family made up of segregated, dissociated, mutually independent members. No; He would have them all united by the bond of total love of Him and consequent self-dedication to assisting each other to maintain that bond intact" (September 7, 1956).

(2) It is a matter of historical fact that segregation in our country has led to oppressive conditions and the denial of basic human rights for the Negro. This is evident in the fundamental fields of education, job opportunity, and housing. Flowing from these areas of neglect and discrimination are problems of health and the sordid train of evils so often associated with the consequent slum conditions. Surely Pope Pius XII must have had these conditions in mind when he said just 2 months ago: "It is only too well known, alas, to what excesses pride of race and racial hate can lead. The church has always been energetically opposed to attempts of genocide or practices arising from what is called the color bar" (September 5, 1958).

One of the tragedies of racial oppression is that the evils we have cited are being used as excuses to continue the very conditions that so strongly fostered such evils. Today we are told that Negroes, Indians, and also some Spanish-speaking Americans differ too much in culture and achievements to be assimilated in our schools, factories, and neighborhoods. Some decades back the same charge was made against the immigrant, Irish, Jewish, Italian, Polish, Hungarian, German, Russian. In both instances differences were used by some as a basis for discrimination and even for bigoted ill treatment. The immigrant, fortunately, has achieved his rightful status in the American community. Economic opportunity was wide open and educational equality was not denied to him.

Negro citizens seek these same opportunities. They wish an education that does not carry with it any stigma of inferiority. They wish economic advancement based on merit and skill. They wish their civil rights as American citizens. They wish acceptance based upon proved ability and achievement. No one who truly loves God's children will deny them this opportunity.

To work for this principle amid passions and misunderstandings will not be easy. It will take courage. But quiet and persevering courage has always been the mark of a true follower of Christ.

We urge that concrete plans in this field be based on prudence. Prudence may be called a virtue that inclines us to view problems in their proper perspective. It aids us to use the proper means to secure our aim.

The problems we inherit today are rooted in decades, even centuries, of custom and cultural patterns. Changes in deep-rooted attitudes are not made overnight. When we are confronted with complex and far-reaching evils, it is not a sign of weakness or timidity to distinguish among remedies and reforms. Some changes are more necessary than others. Some are relatively easy to achieve. Others seem impossible at this time. What may succeed in one area may fail in another.

It is a sign of wisdom, rather than weakness, to study carefully the problems we face, to prepare for advances, and to bypass the nonessential if it interferes with essential progress. We may well deplore a gradualism that is merely a cloak for inaction. But we equally deplore rash impetuosity that would sacrifice the achievements of decades in ill-timed and ill-considered ventures. In concrete matters we distinguish between prudence and inaction by asking the question: Are we sincerely and earnestly acting to solve these problems? We distinguish between prudence and rashness by seeking the prayerful and considered judgment of experienced counselors who have achieved success in meeting similar problems.

For this reason we hope and earnestly pray that responsible and sober-minded Americans of all religious faiths, in all areas of our land, will seize the mantle of leadership from the agitator and the racist. It is vital that we act now and act decisively. All must act quietly, courageously, and prayerfully before it is too late.

For the welfare of our Nation we call upon all to root out from their hearts bitterness and hatred. The tasks we face are indeed difficult. But hearts inspired by Christian love will surmount these difficulties.

Clearly, then, these problems are vital and urgent. May God give this Nation the grace to meet the challenge it faces. For the sake of generations of future Americans, and indeed of all humanity, we cannot fail.

HOW YOU CAN HELP SECURE JUSTICE BETWEEN ALL MEN

Respect the rights of each other man in your everyday life in church, at home, in your neighborhood and at work. Christ's great commandment was that we truly love our fellow man, whoever he may be.

Join your local Catholic human relations organization * * * many parts of the United States have Catholic interracial councils or Catholic councils on human relations. Such organizations are found from New Orleans to Chicago; from Boston to San Diego.

Support other organizations working to secure lasting and wholesome integration.

The work of the National Catholic Conference for Interracial Justice, in its many services and special projects, reaches throughout the United States and overseas.

For information, please write the National Catholic Conference for Interracial Justice, 21 West Superior Street, Chicago 10, Ill.

AN APPEAL TO THE CONSCIENCE OF THE AMERICAN PEOPLE

We have met as members of the great Jewish and Christian faiths held by the majority of the American people, to counsel together concerning the tragic fact of racial prejudice, discrimination and segregation in our society. Coming as we do out of various religious backgrounds, each of us has more to say than can be said here. But this statement is what we as religious people are moved to say together.

I

Racism is our most serious domestic evil. We must eradicate it with all diligence and speed. For this purpose we appeal to the consciences of the American people.

This evil has deep roots; it will not be easily eradicated. While the Declaration of Independence did declare "that all men are created equal" and "are endowed by their Creator with certain inalienable rights," slavery was permitted for almost a century. Even after the Emancipation Proclamation, compulsory racial segregation and its degrading badge of racial inequality received judicial sanction until our own time.

We rejoice in such recent evidences of greater wisdom and courage in our national life as the Supreme Court decisions against segregation and the heroic, nonviolent protests of thousands of Americans. However, we mourn the fact that patterns of segregation remain entrenched everywhere—North and South, East and West. The spirit and letter of our laws are mocked and violated.

Our primary concern is for the laws of God. We Americans of all religious faiths have been slow to recognize that racial discrimination and segregation

are an insult to God, the Giver of human dignity and human rights. Even worse, we have all participated in perpetuating racial discrimination and segregation in civil, political, industrial, social, and private life. And worse still, in our houses of worship, our religious schools, hospitals, welfare institutions, and fraternal organizations we have often failed our own religious commitments. With few exceptions we have evaded the mandates and rejected the promises of the faiths we represent.

We repent our failures and ask the forgiveness of God. We ask also the forgiveness of our brothers, whose rights we have ignored and whose dignity we have offended. We call for a renewed religious conscience on this basically moral evil.

II

Our appeal to the American people is this:

Seek a reign of justice in which voting rights and equal protection of the law will everywhere be enjoyed; public facilities and private ones serving a public purpose will be accessible to all; equal education and cultural opportunities, hiring and promotion, medical and hospital care, open occupancy in housing will be available to all.

Seek a reign of love in which the wounds of past injustices will not be used as excuses for new ones; racial barriers will be eliminated; the stranger will be sought and welcomed; any man will be received as brother—his rights, your rights; his pain, your pain; his prison, your prison.

Seek a reign of courage in which the people of God will make their faith their blinding commitment; in which men willingly suffer for justice and love; in which churches and synagogues lead, not follow.

Seek a reign of prayer in which God is praised and worshiped as the Lord of the universe, before whom all racial idols fall, who makes us one family and to whom we are all responsible.

In making this appeal we affirm our common religious commitment to the essential dignity and equality of all men under God. We dedicate ourselves to work together to make this commitment a vital factor in our total life.

We call upon all the American people to work, to pray, and to act courageously in the cause of human equality and dignity while there is still time, to eliminate racism permanently and decisively, to seize the historic opportunity the Lord has given us for healing an ancient rupture in the human family, to do this for the glory of God.

Senator PASTORE. Thank you very much, Father.

Now, for a more orderly procedure, if your two distinguished colleagues have anything to add, we would like to hear from them now.

Rabbi Blank?

Rabbi BLANK. No, thank you.

Senator PASTORE. Dr. Blake?

Dr. BLAKE. No, sir, except to join heartily in the testimony.

Senator PASTORE. Mr. Thurmond?

Senator THURMOND. Mr. Chairman, I have no questions.

Senator PASTORE. Mr. Cotton?

Senator COTTON. Mr. Chairman, I thank you.

I would like to say that I think the presentation that you have made this morning is almost an epoch-making one. It is from a moral, spiritual standpoint absolutely unanswerable. I cannot imagine that any member of this committee, any Member of the Congress, whatever may be the locality from whence he comes could possibly fail to agree with you completely that it is a reproach and a disgrace to our Republic that there should be discrimination against any person because of their color, race, or national origin.

There are, however, some aspects of the problem that we on this committee have to face that are not quite as simple and forthright as the moral problem. And I do not say that in any attempt to try to dodge or evade the responsibility that is ours.

I agree with you on the moral issues; I agree with you also completely that the mere excuse or objection about property rights as such is a very feeble and unsatisfactory answer to any qualms that any member of the committee might have on the details of this legislation.

I am sure that you recognize, Father, or rather I will ask you if you do recognize that there is a necessity of drawing a line, and a careful one, about how far, by law, we can go in seeking to enforce what is morally right to the individual.

Father CRONIN. As a principle I agree with you completely. I don't think that law and morality should be coextensive; that the public welfare should be the determining factor in deciding when civil laws should be enforced or when enforcement is morally right.

Senator COTTON. This is introducing a highly controversial subject. It may be an unfortunate comparison. We sought, by constitutional amendment, and by legislation, to stop the use of alcoholic beverages in this country, and an unfortunate result occurred, not because the end was undesirable but because as soon as it was written in the Constitution and written into law, apparently the moral forces—and these may I say, perhaps, were the religious forces of the country—decided that personal education and influence were unnecessary, at least they weren't pressed as hard, and they depended on the law to enforce it, and the result was unfortunate.

What I am getting at is this: Ever since I have been in Congress I have recognized the fact that for more than 90 years this Nation has failed to keep its solemn pledge to the Negro to give him the full rights of citizenship, unimpeded, unhindered, and untimidated. We have failed as a Nation to give him the complete right of voting without intimidation, the complete right to stand as a first-class citizen in matters of citizenship. That is long overdue. I have voted and shall vote for and give support to every measure of the Federal Government to make good on that promise which is over 90 years old.

One of the best things the President said was it wouldn't do much good to secure the Negro access to a restaurant if he didn't have a decent job or money in his pocket to pay for a meal, and that it was our duty to see to it that in every field in which Federal funds are used directly or indirectly, and in every Federal activity, Negroes shall be given an equal opportunity so that they will not be in any way confined to the jobs of lesser dignity.

I also agree with you that a law that affects moral rights should affect the small, the big, and the great. It is just as bad to have a Negro rejected at a hotdog stand as it is in the Statler Hotel. It is the same principle. I think that this word "substantially" affecting the interstate commerce should be eradicated from this bill if we are going to approach the Interstate Commerce Clause.

However, when we come to draw the line on public facilities, I would like to ask you a couple of questions and then I won't take your time any longer, because you have made an excellent statement and I don't want to discuss the technicalities too much.

You mentioned the Mrs. Murphy boardinghouse. This bill, as drawn—perhaps I shouldn't use that name but that has been accepted—

Senator PASTORE. Father Cronin used it. It is all right.

Senator COTTON. It is clear that the administration, the Attorney General, or whoever drafted this particular measure, has sought, whether successfully or unsuccessfully, to draw a line between those facilities that are really public and those that are semiprivate in nature.

It is a disgrace along Route 40 that American Ambassadors of emerging nations in Africa, or any other race or color, American or otherwise, should be denied access to these public facilities. It is pretty hard, however, to draft a law that takes care of that and doesn't reach further.

If a widow—and I think of some in my own locality—has a large house and inadequate income, and seeks to take lodgers, her living may be in danger if the Federal Government is going to govern her activity and put her in a position where she may run into social difficulties that make it impossible for her to make that living. And I think that was recognized, rightly or wrongly, by the administration, and it was sought to be taken care of in this bill.

What I am getting at, Father: Would you agree that it can be done, that the final drafting of this measure should be confined to those facilities that really are in the full sense public?

Father CRONIN. I would like to answer that briefly, and ask my colleagues if they will comment on it. My own feeling is that there is a very basic distinction between public wrong and private wrong, and it is not the function of law to compel all good or to inhibit all evil. But sometimes private wrongs must remain matters of the conscience of the individual who inflicted or who was the victim of such wrongs.

But I do feel that when a person offers facilities for public use, for sale to all comers, the only distinction being the basis of color, to me this does become a matter of public right and wrong; that you are perpetrating something which has historically assumed tremendous proportions. Actually as we know the tea tax in Boston wasn't a very important thing in itself. At a given time and circumstance in history, it sparked off a revolution. As you say it is important for a Negro to have a good job, to have education, decent housing, than to have access, say, to a hotdog stand. But we are in the point of history today, with the emergence of Africa, with the decline of colonialism throughout the world, and with the very emergence of the Negro himself toward the full realization of rights where today what seemed relatively minor 8 or 10 or 12 years ago has now suddenly become something very great. That is why I hesitate to draw any distinction further than the distinction between public right and private right.

If the insult is in the private domain, that is not a concern of Government. But once a facility is open to the public, then I believe that the Government has the right and the duty, if it is going to enact legislation, to do this without distinction as to the size or the nature of the facility.

Senator PASTORE. Will the Senator yield at that point?

Senator COTTON. Certainly.

Senator PASTORE. Father, would you make a distinction in that particular case from an ordinary tourist home—I am not questioning you or the philosophy that you expressed but merely to get this down to a refinement that might justify thinking on both sides of the ques-

tion—would the fact that it is a private home or has been a private home, and this widow who has lost her husband is now compelled, for economic reasons, to rent two or three rooms to tourists, make any difference?

Father CRONIN. I would not make that distinction, to be frank with you, Mr. Chairman. To me she has every right to insist that people who come to her private home are well-dressed, well-behaved, manly, the type of person that she would like to associate with. But I cannot morally accept the decision that color is the basis for discrimination. I simply can't do it. How about you, Rabbi?

Rabbi BLANK. Senator—

Senator PASTORE. Nobody wants to, Father. This is a question that has been tossed around quite a bit, about "Mrs. Murphy's" exception. I think we ought to get that clearly on the record.

Father CRONIN. To me I can't make the distinction.

Rabbi BLANK. In the example given with reference to the intoxicating beverages, certainly we have an ideal example of our all-persuasive concern for developing the kind of legal structure which will make for human dignity and self-respect.

Now, granted that on occasion those provisions have backfired, particularly in the case which you illustrated, but this does not free us from the responsibility of wrestling both with the techniques in our desire to achieve human dignity and self-respect. We are not denying there are technical difficulties, and occasionally this concern backfires.

With reference to tourist homes, I can think within my own personal life that as a youngster our family would tour the country and occasionally we would stop at farmhouses which were renting rooms, and tourist homes, and I cannot imagine the kind of shock which I personally and my family might have endured had we been turned around, turned off on the basis of discrimination.

I think perhaps if we think of Mrs. Murphy or Mrs. X as we thought of Typhoid Mary, for example, that this might clarify the issues for us.

Once these facilities are made available to any segment of the public, that there is the possibility of spreading the evils of discrimination and subjecting our citizens to shame and degradation which they should not be subjected to.

Senator CORRON. Mr. Chairman, this is exactly what I was going to ask. I have one more brief matter that I would simply like to explore with you, Father.

We also have a problem which may seem to be a technical problem, and one that is unnecessarily complicating the consideration of a great moral issue. But we have this matter of the whole approach under the interstate commerce clause of the Constitution, as distinguished from the approach under the 14th amendment, or the approach under the 14th amendment plus a submission of a further amendment which faces squarely this distinction.

When we deal with the interstate commerce clause we say we must apply this; we want to use this to stop discrimination because of the color of skin or because of race or creed or national origin. But then we open up many more questions.

In New Hampshire a woman writes to me and says that she runs a small resort hotel, that she receives Negroes; that she largely, how-

ever, at certain seasons of the year, takes care of old people. She has what we call "senior citizens" and they want quiet, therefore she turns away and will not take young people or young married couples with children because they are too noisy.

Under this bill, to get it under the interstate commerce clause, it starts the bill by saying that the American people have become mobile, millions have traveled from State to State, they must have a place to sleep at night, they must not be turned away.

I asked Dean Griswold, and I asked a similar question of the Attorney General about it, if we stretched the interstate commerce clause to deal with this admittedly just and necessary moral issue, how far it would go if Congress saw fit to deal with other matters not so pressing.

In addition to such actions we take now, there might be a clean-cut constitutional amendment submitted that simply takes care of color, race, creed, national origin, and doesn't open up all these extraneous questions of what Congress could do to people who are trying to run a business in other fields that do not affect the small businessman.

FATHER CRONIN. I am a layman in the business field. My own inclination would be in favor of the 14th amendment approach.

Certainly in addition to the interstate commerce, and probably rather than the old tendency of stretching the interstate commerce clause, since about 1935 it has pushed it about as far, I guess, as it can go constitutionally, where we have got to the stage now where almost anything affecting interstate commerce can be regulated.

I feel that the 14th amendment approach is more direct.

At the same time the testimony is strictly of a layman and one who has no training in law.

I might say, incidentally, in regard to your comment about having quiet resort hotels, I prefer that myself, and I consider it a perfectly legitimate restriction. But I don't mind having a quiet Negro.

SENATOR CORROX. I didn't mean to take so much time, I am sorry, Mr. Chairman. I would just say this: I want to say to you, Father, that we have these things to consider.

I happen to represent a resort State. I wish I could stand on the floor of the Senate tomorrow and say, and I would be proud to be able to say, that there isn't a hotel, motel, boardinghouse, resort, or anything else in my State of New Hampshire that ever turns away, makes any distinction, between races or color. I couldn't say that. As a matter of fact, there are all kinds of difficulties in a resort region.

I was turned away 2 weeks ago and refused a chance to eat in a hotel because I didn't have a coat on. I know of resort hotels, and I bell-hopped in one 40 years ago and I have been connected with them since, where there are old dowagers in Boston who have been coming up there for fifty years and paying for high-priced suites and they have their table in the dining room and they have their corner on the porch, and neither you nor I—and we don't have to be yellow, black, or anything, else—ever dare to move into their little niche or they would tear the top off the hotel and that proprietor would lose their patronage. So we are entering the field of all kinds of social distinction.

I have called this to your attention.

May I close by saying that I think your statement is absolutely irrefutable. The position you take is such that no conscientious legis-

lator could every say that you were not completely justified in your presentation. I compliment you.

Father CRONIN. Thank you, sir.

Senator PASTORE. If I may interrupt, and this has nothing to do with the pending matter, but this information has just come to my attention and I would like to pass it on to the members of this committee and all Members of the Senate.

I have just heard from the carriers, and they have agreed to the request of the committee for a 30-day extension on the promulgation of the rule changes.

Senator COTTON. Congratulations, Mr. Chairman.

Senator PASTORE. Mr. Monroney?

Senator MONRONEY. I have no questions at this time, Mr. Chairman. Thank you very much.

Senator PASTORE. Mr. Morton?

Senator MORTON. Father, I take it from your responses to my colleague, Senator Cotton, that without going into the legality of it, the 14th amendment would be preferable to the Interstate Commerce Clause in that this deals particularly with man and not the shipment of goods in interstate commerce; is that correct?

Father CRONIN. That would be my personal preference, Senator.

Senator MORRIS. I share your feeling, if we can find the legal basis on which to do it, because here again we are dealing with human rights and human dignity. I hate to see us constitutionally justify that on the basis of a shipment in interstate commerce, or livestock, or something similar. I congratulate you on your statement, Father.

Thank you, Mr. Chairman.

Senator PASTORE. Mr. Lausche.

Senator LAUSCHE. I was late coming in. I will yield to Senator Hart, Mr. Chairman.

Senator PASTORE. Senator Hart.

Senator HART. Thank you, Senator.

Father, I only wish you and your colleagues were present in this room a week or so ago to give aid and comfort and theological backing when I had a visit with the Governor of Alabama.

It would have been very helpful and I could have pursued the subject further with greater confidence.

Dr. Blake, you have been a figure in recent events of great drama. Is it fair to ask you what reaction you have from the public, and more particularly from your fellow Presbyterians?

Dr. BLAKE. I am very glad to reply.

In my correspondence, which is the easiest way to judge what the effect of the story is upon the public, there have been, of course, criticisms; they have been criticisms, some of them, of the extreme kind which you acknowledge if they have an address on them, and others, very thoughtful ones, raising the question of the proper position versus the law, for example.

The last report I had, which is several days ago now, was that the mail was running about 2 to 1 in favor of what I had done. This is better than many times when I have had any wide publicity on things because, as you know, most people write letters when they are a little angry rather than when they are pleased. So that has seemed to me good. There is no question, I think, that any of us—

Senator COTTON. Are you telling us. [Laughter.]

Dr. BLAKE. I presumed you had some experience in the matter, sir.

It seems to me that the type of letter indicates that still there are quite a few Americans, in my church and other churches, who really haven't quite made up their minds which way they are going to go, and I think that the basic thing is that we are trying, by our testimony and in other actions, internally and externally, to see if we can't commit and produce our membership more fully by action with the kind of responsible Negro leadership which is trying to get these rights now.

Actually my own experience in an amusement park is, I think, so small it becomes almost a symbol of the kind of affront that ought not to be in a publicly advertised place. As it happened with me, a very distinguished member of my church—the head of the Urban League in Baltimore—and I went to the gate and the gateman said that I could go in, but that my distinguished Negro elder could not go in with me. This shouldn't happen to anybody. And I don't believe that property rights give anyone that kind of privilege.

Senator HART. Senator Cotton and the chairman, by a smile, indicated the news, 2 to 1 in favor is quite the reverse of tradition. If we voted by the way our mail ran, we would vote against almost everything.

I think it is very helpful that men in your position, and the position of your colleagues testifying today, get out in front physically, because this public accommodations section is one that hits the center of the strong feelings on this matter.

The country is full of people who have always been for civil rights, but this problem is now next door. I think it is helpful to that kind of uncertain person to have underlined not the technicality of what was meant by the 14th amendment, and are we or aren't we stretching the commerce clause, but rather the public demonstration of conviction by you and your colleagues that before the 14th amendment was ever adopted, there was a rule, that no Congress can change; there was a law written by somebody who wasn't here to write it, but who when He created us, established it as a principle.

If we can just hammer this thing out and not get lost in the maze of, whereas, I think we will gain the support, retain the support of this group that has always been for civil rights but now all of a sudden is beginning to wonder if it is really going to be as nice as they thought it was.

I am talking about the white pro civil righter who always thought he was talking about the South and now discovers that there is a problem right in the neighborhood.

Dr. BLAKE. We have emphasized from the beginning, Senator, that this is a national problem and not a sectional problem.

Most of us don't know specifically how to solve racial relations in any particular problem, because of the feelings and so on. I am convinced personally, from experience, that the only sure solution we have is to set up the opportunity for people to talk to each other and come to the next steps in a better, orderly society. This I say anywhere is to have the real Negro leadership talk to the white leadership in any community, and with good will, improvement can be rapidly made.

There are two kinds of experiences I have had, sir, over the years. One was 15 years ago or more. I traveled with a distinguished Negro pastor for three night stands. We were speaking on international peace in 1948, I believe it was, and we were traveling through the Pacific Northwest.

No bad incident happened as far as the race of my companion was concerned during that half a week that we spent together. But, I never was the same again, because I, for the first time in my life, realized what it would be to be a Negro traveling, because he didn't know each time as to whether he would be received. There was just this edginess which no human being ought to be subjected to.

The other thing that I think is a part of the new determination of our new community has to do with the world scene and the fact that I traveled a good deal abroad for my church. I don't think most of us quite realize how much of a spotlight as to how effective our free institutions really are is right on us this year, now. It is not a pretty scene to see that the disabilities that our Negro Americans are under are similar to those facing African nationals now.

They are being pressed by the urgency of their problem in developing from a subcolonial situation since they are now independent. We have, it seems to me, the question of what should or should not happen to any person, and this is the reason I am very happy to be here and to talk about the public accommodations which I would agree with all of you are only a part of the total pattern and not in one sense the most important part.

But I think in this sense of human dignity, and how you feel toward life, that perhaps some of the small things are more important than even the right to vote which many people have but don't even exercise after they get it.

Senator HARR. Thank you very much. Father Cronin, I propose to send to Governor Wallace this printed copy of your testimony with my compliments.

Father CRONIN. Thank you, Senator.

Senator HARR. Senator Lausche, thank you.

Senator MONRONEY (presiding). Senator Bartlett?

Senator BARTLETT. My situation is similar to that of Senator Lausche, only more so, because I came into the hearing room after he did. So, despite the fact that a hint or two has been given by way of a clear response since my arrival, I shall ask this question in all innocence, in all curiosity, and in a sincere desire to be informed. Are you, individually and/or collectively, the three of you, opposed or in favor of the bill that the committee is now considering?

Father CRONIN. Are we opposed or in favor of the bill that the committee is now considering?

Senator BARTLETT. Yes.

Father CRONIN. I would say collectively we are in favor.

Senator BARTLETT. Thank you. That is all.

Senator PASTORE (presiding). Any other questions on the part of any other member? Senator Lausche?

Senator LAUSCHE. With respect to page 5 of the manuscript, as a preface to the words which I will quote, recitation was made of the difficulty of procuring accommodations at religious conventions and, therefore, conventions had frequently to be held not in the place that

was desired but in the place where assurance was given that accommodations would be provided for the participants and the delegates.

On page 5 it is stated, about the seventh line:

These include stores, restaurants, theaters, retail establishments, service shops, places for amusement and recreation, as well as hotels, motels, and lodging accommodations.

My question is: You do not limit in your desire the application of this law to the types of businesses enumerated in this sentence which I just quoted?

Father CRONIN. No. I would say, Senator, they are listed for purposes of illustration.

Senator LAUSCHE. That is, you feel that the law ought to be made applicable to every business that either sells goods or services and holds itself open to the public in the rendition of those services?

Father CRONIN. From a moral point of view, we would certainly favor that. Elements of practicality are involved, but certainly from a moral point of view we would favor it. There may be elements of practicality that may call for certain qualifications. But certainly we would not make them here.

Senator LAUSCHE. From a moral point of view you would favor them all?

Father CRONIN. That is right.

Senator LAUSCHE. And possibly all can be included. But I am not certain about that. I remember when I studied law, of the professor telling me that if a person sees a helpless individual lying on the street, needing help, and the bystander, or let's say, a man traveling the highway, different from the Samaritan, looks at him and laughs at him, the question is, does that person who was injured and helpless have a right of action against this brazen, cruel individual? My answer was yes. And, the professor said he has no action at all.

It is a moral wrong, but not a legal wrong. From a moral standpoint, I think concurrence will be found with this purpose, that they should not be turned down.

Did your group give any thought to the fact that labor unions have been omitted from all of these bills that are before the Congress?

Father CRONIN. I don't remember that we discussed it, but I think each of us individually is very much on record in favor of applying any disabilities of law to labor unions, as well as to business. I think it is equally intolerable that unions discriminate. Perhaps a little more so, because they have a special moral halo of their own.

Senator LAUSCHE. If the Negro looking for a job as a bricklayer can't get it without being a member of a union, and the union will not allow him to become a member in spite of his ability, is that wrong?

Father CRONIN. It is not only wrong, but I think all of us in our church actions have been taking strong pressures recently. One of the things, for example, Dr. Blake mentioned yesterday, most of us are going to try to put in clauses in our construction contracts which collectively total millions of dollars each year, insisting equal employment opportunity, and anything that we construct, purchase, services we use, and so forth. That is a growing movement in the churches.

Senator LAUSCHE. If this bill is passed do you believe it ought to be amended so as to take care of this abuse which I just described?

Father CRONIN. Definitely, I do, Senator, yes.

Senator LAUSCHE. And new—

Dr. BLAKE. I would agree.

Rabbi BLANK. It is my impression that there are such laws now being proposed, Senator.

Senator PASTORE. Before our committee?

Rabbi BLANK. Yes, which deal with the kind of problem which you are posing.

Senator PASTORE. That is right.

Senator LAUSCHE. Then, I put this question. What justification is there for omitting it from this bill when all prejudicial discriminations on the basis of color are sought to be prohibited except the actions of the unions?

Rabbi BLANK. I think that all of us would agree that in dealing with this problem that a total integrated approach is certainly required. As to how this works out in terms of the legal structure, as lay people, I don't know that we would be qualified to answer.

As the bill is stated, it is a public accommodations bill, and it is our understanding that other bills before other committees will deal specifically and comprehensively with the problem which you are treating.

Senator LAUSCHE. What I fear is that the ability to get a bill that separately deals with that problem passed is minimized substantially if it is not included in the major bills that we now have before us on civil rights.

May I point out, in Cleveland, within the last few days, a public structure was to be built. No Negroes were in the electricians' union. The mayor called a meeting and was with them, I think, for one whole night and day, begging them to take in a Negro member. They finally came up and said we will take in one or two, I don't know what it was. It is palpably wrong, and yet we don't dare face it in these bills, and I think that is palpably wrong. That is all.

Senator PASTORE. I quite agree with the Senator from Ohio. In the consideration of civil rights you can't fragmentize the dignity of man which is a whole proposition. You can't say: We will preserve part of your dignity; forget for the moment the rest of it. We either believe in the dignity of man or we don't. You can't fragmentize it, separate it, or divide it.

The fact of the matter is that the administration has covered this question in all of its aspects, and the bill that was introduced was an omnibus bill. It covered all. Now the administration sought to separate these various elements in the introduction of the bills before the Senate. It might have been a practical determination. I don't know. But the fact of the matter is that we are actually getting into the question of jurisdiction.

The jurisdiction of this committee is to deal with matters that have to do with interstate commerce. If this bill were confined solely and strictly to the question of the 14th amendment, the bill would have been referred, of course, to the Judiciary Committee of the Senate. I don't think I have to belabor the question of why that was not done.

The question that is being raised by my distinguished friend is a matter that comes under the labor law, and that means that that bill would go to the Labor Committee of the Senate. That does not preclude us from making this bill an omnibus bill if we choose to do so, because once having assumed jurisdiction, we have the perfect right,

under the rules of the Senate and under the law, to amend this bill in any way we deem fit.

But we run up against this proposition, again as a practical proposition: that once it hits the floor, it will be logical to expect that a motion will be made to refer the bill to one of the committees which I have mentioned for the simple reason that that committee has original jurisdiction on that kind of a problem and we would be complicating this matter.

Therefore I think the record ought to show that there is no desire on the part of the administration to emphasize public accommodations as against any other facet of the civil rights question. It was merely a question of separating this bill in parts so that the committees of appropriate jurisdiction would have assumed responsibility.

I hope that satisfied the Senator from Ohio.

I mean, no one is trying to dodge our responsibility. It is a matter of jurisdiction. And he as a good lawyer knows precisely what I mean.

Senator LAUSCHE. May I state that I thought that since Mr. Wirtz testified, a bill might have been introduced. But there has been no such bill. The omnibus bill, contemplates putting that power in the Civil Rights Commission which shall act by persuasion and solicitation. And it also as I recall has provisions that when the Federal Government lets a contract, there shall then be provisions that no prejudicial discrimination shall occur.

But outside of those two situations you do not have the same sanctions that we have in this bill. So that there is no bill pending that will have effectiveness in procuring the elimination of this wrong in our economy and society.

Senator PASTORE. That may be so.

Senator LAUSCHE. If there is a bill pending, I would like to have it identified.

Senator PASTORE. The Senator from Rhode Island doesn't have to identify the bill. I'm speaking on the question of jurisdiction, on a subject matter with which the Senator from Ohio is very conversant and very prolific and very knowledgeable. We are not responsible for the bills that are referred to our committee. But we are responsible for the product of this committee.

The Senator has every right to amend this bill when the matter is discussed in executive session in any way he deems fit. I'm only saying that the question that he is raising now is within the jurisdiction of the Senate Labor Committee, and that is the reason why it was not included in this particular bill. If it were, the bill would have never come here.

The reason why this bill is before this committee is because it has to do with concerns under the interstate commerce clause. And that is the only reason why it is here. That doesn't mean that we are limited in any way to amend this bill, nor are we precluded from adding the amendment that the Senator speaks of.

My view is clear in the record. The Senator from the State of Ohio has every right to move to amend this bill in any way he deems fit at the time that we hold an executive session.

Senator LAUSCHE. I understand that. But I do think that it is helpful to have the opinion of these distinguished men on this subject.

Senator PASTORE. And they have expressed it.

Senator LAUSCHE. I still am amazed to understand the sort of hostility about discussing this subject.

Senator PASTORE. There is no hostility. I am making an explanation.

Senator LAUSCHE. Are the labor leaders sacred cows? Are they to be left unmolested when all others are to be taken care of?

Senator PASTORE. Has anybody on this committee said that labor leaders are sacred cows?

Senator LAUSCHE. No.

Senator PASTORE. That is your language.

Senator LAUSCHE. We in our meeting discussed this subject, and it was determined that if an amendment was sought to be offered, it could be done.

Senator PASTORE. That's right.

Senator LAUSCHE. And that is why I asked these questions. Here you have an example of how there emerges seemingly crossfire of thoughts, but when it is all completed, the same friendship continues to exist.

Senator PASTORE. Absolutely.

I love the Senator from Ohio as much now at 20 minutes to 11 as I did at 10:30.

Any further questions?

Senator MORTON. We rest.

Senator PASTORE. We want to thank you gentlemen very, very much. We are honored by your presence today. We have been illuminated by your thoughts. We hope that whatever we do we do in good conscience and for the benefit of the country and in the name of Almighty God.

Thank you, Father. Thank you very much.

Mr. Wilkins.

Senator MONRONEY. Mr. Chairman.

Senator PASTORE. The Senator from Oklahoma.

Senator MONRONEY. Several witnesses in these hearings in prior weeks have made statements concerning alleged Communist infiltration of the civil rights movement. Allegations of this nature have since been denied emphatically by spokesmen for the various civil rights organizations. Although I was confident that the allegations would draw vigorous denials from the leaders of the various organizations involved in this movement, it occurred to me that these statements should be brought to the immediate attention of the Federal Bureau of Investigation, which has jurisdiction in preventing subversive activities pertaining to the internal security of the United States.

To accomplish this, I wrote the Honorable J. Edgar Hoover, Director of the FBI, and called to his attention the testimony concerning specific individuals and organizations, including the National Association for the Advancement of Colored People and the Congress of Racial Equality.

On July 17, Mr. Hoover replied that in line with departmental policy by request had been transmitted by him to the Attorney General. I now have for the record a letter from the Attorney General, Mr. Robert F. Kennedy. In the interest of accuracy and fair play, I request that this information from the Attorney General be placed

in the record of these hearings. The letter, which was addressed to me on July 23, is as follows:

Senator MONRONEY,
Washington, D.C.

DEAR SENATOR: This is in response to your inquiry of the Federal Bureau of Investigation concerning the charges made at the hearings on S. 1732 that the racial problems in this country, particularly in the south, were created or are being exploited by the Communist Party.

Based on all available information from the FBI and other sources, we have no evidence that any of the top leaders of the major civil rights groups are Communists, or Communist controlled. This is true as to Dr. Martin Luther King, Jr., about whom particular accusations were made, as well as other leaders.

It is natural and inevitable that Communists have made efforts to infiltrate the civil rights groups and to exploit the current racial situation. In view of the real injustices that exist and the resentment against them, these efforts have been remarkably unsuccessful.

I hope that this provides the information you were seeking.

Sincerely,

(Signed) Mr. ROBERT F. KENNEDY,
Attorney General.

Senator PASTORE. Thank you very, very much, sir.

Will you assume the Chair?

Senator MONRONEY (presiding). Mr. Wilkins, we are glad to have you back before our committee to complete the testimony which you so ably began earlier in the week.

I believe that it was Senator Thurmond who had the interviewing and questioning position at the time we adjourned.

Do you wish to resume?

Senator THURMOND. Thank you, Mr. Chairman.

Senator MONRONEY. The Senator from Michigan seeks recognition.

Senator HARR. Mr. Chairman, I would like the record to show that I am leaving, and I hope only temporarily. The Committee on the Judiciary is hearing the omnibus civil rights bill beginning at 10:30 with the Attorney General on the stand. This is appropriate to the exchange that Senator Lausche had with the chairman.

If anybody is looking for additional activity, the Labor Subcommittee is considering the FEPC bill this morning, which is the appropriate bill covering labor unions. That makes three places. We can't be at each one at the same time. I, therefore, ask the record to show that I shall be absent in order that I may attend the Judiciary Committee hearing on the same subject.

Senator PASTORE. The record will so indicate, from the statement made by the distinguished Senator from Michigan.

I was not here when this matter was recessed until today. Will the Senators indulge me for just a moment?

I understand Senator Thurmond was interrogating.

Senator Thurmond may proceed.

Senator THURMOND. Thank you, Mr. Chairman.

Mr. Chairman, I have a good many questions. I was here this morning at 9:15, and didn't get started until 9:30. Considerable time has been consumed. This is an important witness. If we do not finish today, I will ask that he come back. There will be no waste of time; there will be unnecessary questions propounded. But I do have some important questions. I will finish as fast as I can.

Senator PASTORE. If the Senator will yield for a moment we can straighten this out.

The session was called today for 12 o'clock. I think it was done in anticipation of what might have taken place with reference to the request that was made upon the carriers to defer for a period of 30 days the implementation of the new work rules.

We have called a meeting this afternoon on that question at 4 o'clock. It would strike me that if the Senate recesses before 2 o'clock this afternoon, we would have the period between 2 and 4 o'clock to recall Mr. Wilkins, if it is convenient for him, in the event that the Senator does not conclude.

I wouldn't want to keep bringing back Mr. Wilkins at his own expense on various days. If we can conclude today, I think we owe it to him.

Senator THURMOND. Just so we get through asking the questions. He is here representing a big organization. There will be no waste of time.

I might say, Mr. Wilkins, we do not wish to inconvenience you.

FURTHER STATEMENT OF ROY WILKINS, EXECUTIVE SECRETARY, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ON BEHALF OF THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS

Mr. WILKINS. Thank you, Senator.

Senator THURMOND. I shall ask these questions as briefly as I can, and save as much time as I can. You can make your answers as brief as you see fit. We do not wish to cut you off in any way.

If a person is refused permission to enter on privately owned premises, and enters nevertheless, or refused to leave the premises after being so directed by the owner, is not the entry or refusal to leave a trespass and as such, a breach of law?

Mr. WILKINS. That depends on the law of the State and also of the circumstances, Senator. We have found that the laws of trespass, so-called, have been used repeatedly for purposes of enforcing racial exclusion or segregation. In such instances we do not view them as bone fide laws of trespass.

Senator THURMOND. If you own a piece of property and someone is on that property against your wishes and you ask him to leave and he doesn't do so, after that he is a trespasser, is he not?

Mr. WILKINS. If it is a private home or a business, which?

Senator THURMOND. Private property. Private property, regardless of what property it is.

Mr. WILKINS. I would think that would require a legal definition.

Senator THURMOND. We will pass on.

Do you believe one is justified in violating the law in order to claim what one might consider his moral right?

Mr. WILKINS. That is a question which each man has to decide for himself. I wouldn't undertake to make any across-the-board declaration on it. Some people feel that violations of a law which they consider to be morally wrong is justifiable. I would think that would be a decision for each person to make.

Senator THURMOND. Do you believe that each person should govern his conduct toward others in accord with his own interpretation of what is morally right, rather than by the rules of law which society has prescribed for individual conduct?

Mr. WILKINS. Insofar as the law has codified morality, he should obey the law. There is a vast area where morality alone rules. It would seem to me that this would be an area in which the law could not make a pronouncement or binding commitment.

Senator THURMOND. In other words, can he make up his own judgment, his own interpretation of what is morally right, or is he required to follow the law that society has prescribed?

Mr. WILKINS. Senator, I think you are talking about two different things.

We have instances where religious sects have felt that morally they were not able to do certain things that we have embodied in our law. And we have upheld that contention on moral and religious grounds, ground of religious freedom.

I repeat that there is an area here of morality which is uncovered by the law, and where a man has to make up his own mind.

If your question is whether a person has a right to decide in his own mind what is the law and what is not the law, or whether he will obey the law or not obey the law, then my answer has to be that in a civilized society the law must prevail. But when you mix law and morality, I confess I'm at sea here.

Senator THURMOND. Suppose an individual would consider something morally wrong, but the law says it is legally right. Then which course is he to follow?

Mr. WILKINS. I would imagine that if he felt strongly enough about it, he would proceed to a test of it before the courts, just as some of our religious groups have felt strongly about such a thing as saluting the flag. This is fraught with a great deal of patriotic emotion, with moral comparatives, and with the law. And yet they felt so strongly about it that they went to court about this matter and secured an adjudication.

I would think that that would have to be done in the hypothetical case you cite.

Senator THURMOND. So you feel that if a man feels the law is morally wrong, that he can evade it on the pretense that he will test it each time?

Mr. WILKINS. I fail to see where pretext enters into it. I would assume that if he felt strongly enough about it, if he were sincere, that he would proceed immediately to test it by presenting himself as a violator, and immediately securing a test, not a pretext.

Senator THURMOND. Mr. Wilkins, do you believe that an individual or group of individuals have the right to breach the law if necessary in order to bring about social or political change?

Mr. WILKINS. I think a great American once made a pronouncement on that. People have a right to change the society in which they live, even by means of revolution if they feel that that society is wrong and is not serving the purposes for which it was created.

We were created by revolution in this country. We didn't have such reverence for the laws and traditions of Great Britain that we felt bound to abide by them forever and a day. There came a time when we said we will have no more of it.

It is conceivable, Senator, that there would come a time when a group would feel that the restrictions or customs or traditions under

which it was held were so intolerable as to require them to disregard them altogether.

Senator THURMOND. Is that your answer to the question?

Mr. WILKINS. That's my answer.

Senator THURMOND. Mr. Wilkins, have you participated in the planning or implementation of plans to conduct a sit-in demonstration?

Mr. WILKINS. Any sit-in demonstration?

Senator THURMOND. That's right; to conduct a sit-in demonstration.

Mr. WILKINS. Yes; I have.

Senator THURMOND. Has the NAACP, of which you are an officer, participated in the planning or the actual operation of a sit-in demonstration?

Mr. WILKINS. Yes; it has.

Senator THURMOND. Has the NAACP, or any of its national or local officers, directly or indirectly, participated in the planning or in carrying out of the recent demonstrations in Cambridge, Md.?

Mr. WILKINS. Some of its officers and some of its members; yes.

Senator THURMOND. From what you have testified, it appears that you believe that property rights as they presently exist in our society, must give way or be modified in order to assure equality of treatment. Is that your position?

Mr. WILKINS. We don't think that property rights give anyone in public business the right to discriminate against any segment of the public.

Senator THURMOND. I would like to repeat that: From what you have testified, I believe the last time you were here, it appears that you believe that property rights as they presently exist in our society must give way or be modified in order to assure equality of treatment?

Mr. WILKINS. I don't recall any such testimony, Senator. I'm a little hazy about Monday's questions and answers, but I don't recall an answer which carried that import. I would be glad to have—

Senator THURMOND. I believe you testified that human rights must be put above property rights.

Senator PASTORE. That is a conclusion that the Senator from South Carolina is making now. We have to be fair to this witness, to admit that.

Mr. WILKINS. I did not use such language. I implied, if I recall the testimony—I don't have a text before me—

Senator THURMOND. I do not wish to put words in your mouth. Explain your position.

Mr. WILKINS. Your present question, if it is related to the immediate preceding questions, there is no reference in those questions to property rights. If it relates to what I said or what you think I said or implied on Monday, all I can say is that with reference to your present question—I would have to know the reference.

I did not assign any priorities on Monday to human rights and property rights.

Senator THURMOND. I will ask you in a more simple way. Should property rights, as they presently exist in our society, give way or be modified in order to assure equality of treatment?

Mr. WILKINS. I would prefer to put it positively, that the concept of property rights should not be permitted to interfere with the grant-

ing of human rights as embodied in the equal treatment or equality of opportunity national policy concept on which our country was founded.

Senator THURMOND. Mr. Wilkins, in the transcript of the television program on which you appeared last Monday night you are quoted as saying, and I quote:

The real power and obstacle there is the property right structure in this country which isn't concerned with how many kids are hit by rats or how many people live in slums.

Is that an accurate quotation?

Mr. WILKINS. The Senator has the advantage of me. I didn't see that television program or hear it. But I seem to recall that remark. And I have no apologies for it. I think it stands on its own. It referred specifically, as the reference suggests, to the landlord and tenant relationship; the vast living quarter ownership in this country; and I think the evidence is overwhelming and can be assembled in any locality, urban or village, the landlord, the property-owning class, is not particular about the tenants.

The latest evidence of it is the fact that the National Association of Real Estate Brokers has advised its members to beware of fair housing laws and that they are not obligated to obey these laws; that property rights come first.

This was part of the basis for that television statement that you read.

Senator THURMOND. So you stand by the statement——

Mr. WILKINS. I do.

Senator THURMOND. Mr. Wilkins, the obvious connotation of your statement on the property right structure in this country is that they should be changed. Would you tell us what type of property right structure you would recommend as a replacement for those now existing?

Mr. WILKINS. Senator, I don't think the implication is that they should be changed, or abolished, or got rid of. The implication here, very plain, is that they should be oriented to have some consideration for human rights. Our history is full of modifications to take into account new development, new concepts. And we have done this without abolishing anything and without setting up any new society.

All that is needed, if I may retreat to a truism, is a new heart.

Senator THURMOND. Mr. Wilkins, in your opinion, does the bill S. 1732, which is now before this committee, go far enough in changing the existing property right structure to qualify as a valid first step in modifying the property right structure as you envision it?

Mr. WILKINS. I am sorry, Senator, I don't conceive of S. 1732 as a bill whose objective it is to change the property right structure. It is not so entitled, and the content of it does not suggest that that is its purpose.

Senator THURMOND. Of course, you know that this bill would require a person or private business establishment, private property, to serve people or sell to people he may not wish to?

Mr. WILKINS. Senator, that has been—that has come down from English common law for every innkeeper.

Senator THURMOND. So, this would make a change to that extent would it not?

Mr. WILKINS. I don't believe it would make a change. It would make a change in certain areas of our country. It would make a change in purely local and individual practices in a particular business or establishment. But it certainly doesn't make any change in the basic law. It advances no new principle. It proposes no revolution, and it doesn't set forth to abolish any privileges of ownership. It simply says what the old English law said, that an innkeeper has to accept those people who come to it.

Senator THURMOND. Suppose it is not an innkeeper. Suppose it is a barbershop or some other type facility?

Mr. WILKINS. It is in precisely the identical category. It is the category of rendering personal service.

Senator THURMOND. Of course, you would have to admit this bill does require the owner or the operator of property to use it any way he may not wish to; does it not?

Mr. WILKINS. I think he is under an obligation to the society in which he lives—

Senator THURMOND. That is not the question I asked you.

Mr. WILKINS. To borrow from your prior question to me, Does he have a right to impose his concept of how society ought to be run on society if the practices and the laws are to the contrary?

Senator THURMOND. The question I asked you, though, is this bill would require—you didn't respond to my question.

Mr. WILKINS. Senator, I am sorry. I tried to respond to the question.

Senator THURMOND. The question I asked you is that this would require the owner of a property, in a way to force him, compel him, to use such property in a way that he does not wish to.

Mr. WILKINS. It probably would. But all operators of businesses are forced in some measure by some regulation to use their property in ways that they may not choose. If this were not so, we wouldn't find them contently up before our courts for violation of the laws.

Apparently they wish to conduct their businesses in a variety of ways not consonant with the law. Here again this compulsion, as you call it, would impose no new principle or hardship, nor embody any revolution.

Senator THURMOND. Of course, you have a right to express your opinion as to what would be the effect of it. I didn't ask the effect. I asked if it would not force a man to use his property in a way that he may not wish to, and I believe you said it would, in effect. And, of course, you have a right to explain if you wish.

Now, Mr. Wilkins, would the passage of this bill, S. 1732, in your opinion, end the mass demonstrations which have been occurring in the cities all over the country?

Mr. WILKINS. To a complete end? To bring them to a complete end?

Senator THURMOND. To bring to an end the demonstrations?

Mr. WILKINS. Senator Thurmond, the purposes of S. 1732 if they were accomplished, if they were embodied in legislation, and if that legislation were faithfully adhered to and executed, would be a successful assault upon only one segment of the problem we are here considering. And the mere fact that S. 1732 is but a part of a package sent over is an admission that it would correct only one deficiency.

For anyone to assert that if this particular section were enacted it would stop the demonstrations, some of which are directed against employment discriminations, some of which are directed against other types of discriminations, like housing, would be unrealistic. I couldn't give an affirmative answer to that.

Senator THURMOND. So, even if this bill were passed, there would be no assurance there would be an end to mass demonstrations?

Mr. WILKINS. It seems to me we would have an assurance that they would be reduced. If you have a headache and you take a pill and it stops only part of the headache or for a little while, you don't say you shouldn't take the pill. You take another one.

Senator THURMOND. Mr. Wilkins, James Farmer, a director of CORE, is quoted as stating that, and I quote:

I would not be prepared to put our cause to a general referendum in this country. The vote would be 2 to 1 against us.

Do you agree with this estimate by Mr. Farmer?

Mr. WILKINS. I am sorry. I don't know on what basis Mr. Farmer made his estimate on a referendum.

Senator THURMOND. I don't either. I wondered if you agree with it?

Mr. WILKINS. I don't know what question would be put in such a referendum, how the question would be worded, or how the sampling would be done. There are a lot of factors there. I couldn't hazard a guess on that, Senator.

Senator THURMOND. In the transcript of the television program which I mentioned earlier, in answer to the questions as to why the President sent this bill to Congress, you are quoted as follows, and I quote:

He did it because the crisis was created that demanded the attention of the Nation on the highest level, just like, well, a dust bowl. It is something beyond the State, and beyond the region and demands Federal action. A great disaster like Texas City demands national action. A great flood demands national action. And here we have a crisis in human rights brought about by one, in great part by all of us, of course, but triggered by a man who sits around this table.

I think there is no doubt that Birmingham dramatized, and has brought into focus, what Martin Luther King and his associates did in Birmingham: made the Nation realize that at last the crisis had arrived.

From this statement are we to assume that you believe the President sent this bill to Congress because of the crisis brought about by the mass demonstrations, and in particular those demonstrations led by Martin Luther King?

Mr. WILKINS. No; that is only a portion of the statement, Senator. I used the word "triggered" by Birmingham, and, of course, we all know that the trigger is only an instrument in the discharge of the weapon. There is a good deal behind it, and it has been building a long time as suggested in that quotation of yours.

It is my considered belief that the legislation was sent to the Congress and that indeed it should never have had to be sent to the Congress; that Congress should have initiated it itself, because of the slow building of this crisis in the Nation, and that Birmingham, and more properly, perhaps, Police Commissioner Eugene Connor of Birmingham, was the trigger.

There are a lot of things that happened before Birmingham. And anyone who is conversant with the situation knew that a crisis was

developing, and no one knew it more accurately or certainly than the people in the South, both white and black. They all knew it. It just took Birmingham to cap it off.

Senator THURMOND. In speaking of the march on Washington, planned for August 28, you are quoted as stating, and I quote:

In my estimation this march is going to be a hundred-percent outpouring of the disgust and distress of black Americans and white liberals over the way Congress has handled this bill.

This bill was introduced on June 19, just a little over 1 month ago. Hearings were begun almost immediately. Do you think there is any legitimate question as to the constitutionality of this proposal on which hearings should be held?

Mr. WILKINS. Senator, the expression "this bill" does not refer to the specific matter before this committee or before the Congress, the bill that was introduced at the suggestion of the President of the United States. It refers to the civil rights issue, and all the bills of all the Congresses in the past, and the way they have been handled. It does not refer, sir, to this particular legislation.

Senator THURMOND. I am sure that you agree that there is a serious constitutional question involved in the bill now before this committee.

Mr. WILKINS. There is?

Senator THURMOND. What specific provision of the Constitution of the United States gives Congress the power and authority to enact the provisions of S. 1732?

Mr. WILKINS. Now, Senator, as I indicated on Monday, I'm neither a lawyer nor a constitutional lawyer. And so I am not able to say precisely how these are legally or constitutionally based. But as a layman it is inconceivable to me that any legislation would be considered, much less drafted and introduced, if there were not some constitutional basis for such action.

I am sure the Senator would not insist that every piece of legislation that has been introduced in the Congress on a vast variety of subjects has had a solid constitutional basis, and that this constitutionality had to be determined.

I think the other day, on Monday, I referred to the National Recovery Act, which was passed in the first administration of Franklin D. Roosevelt, when the country was in the depths of a great depression. This was an effort to get us out of that depression. Yet it was later found to be unconstitutional by the Supreme Court on the petition of a New Jersey chicken farmer. And yet I found, in 1932—and I was grown at that time and able to read and hear and listen—I found no great sentiment in the Congress that they should hesitate to enact a National Recovery Act because it might be unconstitutional.

It seems to me that in attempting to fasten this requirement in ironclad fashion on every effort made to enact civil rights, we are asking the proponents of civil rights, and, incidentally, millions of people who suffer by reason of deprivation, to have a clear, uncontestable case before even presenting it for consideration. And of course, this cannot be.

Senator THURMOND. You of course are familiar with an oath that a Congressman takes to uphold the Constitution?

Mr. WILKINS. Indeed I am.

Senator THURMOND. And when legislation is considered by him, the very first step that he must or should take is to determine, Is this legislation constitutional? And if he decides it is not, then he shouldn't go any further. So there is an obligation of Congress along that line.

Mr. WILKINS. There is an obligation and a great many of them discharge that obligation on just such a basis. But those who say this is constitutional, as we know from the record, are not always right, proved right. And those who say it is not constitutional, as we know from the record, are not always proved to be right either.

So that it seems to me both have to proceed according to their perception of this matter and let the arbiter finally decide, the Supreme Court of the United States, which as arbiter is in bad repute in some areas, as I understand it.

Senator THURMOND. Mr. Wilkins, as you are probably aware, very similar provisions to those in S. 1732 were specified by Congress as sections 1 and 2 of the Civil Rights Act of 1875. In the case of the *United States v. Nichols*, decided in 1883, the Supreme Court held these sections to be unconstitutional. The Court specifically stated that Congress had no right to pass such a law under the 14th amendment. The Court stated, and I quote:

It is State action of a particular character that is prohibited. Individual observation of individual rights is not the subject matter of the amendment.

Do you know of any constitutional amendment adopted since 1875 which would change and expand the meaning of the 14th amendment so that it would now apply to individual actions as well as State action?

Mr. WILKINS. No, sir; I do not. But I do not likewise know that an opinion of a court rendered in 1883, or even in 1923, or even in 1953, would necessarily stand today.

It seems to me that with all the variables we have had in court decisions that the proponents of civil rights are perfectly justified in proceeding on this assumption.

Senator THURMOND. In the absence of any State statute or local ordinance on the subject, what State action is embodied in the refusal of an owner of a private business establishment to serve or do business with anyone he chooses?

Mr. WILKINS. I believe, Senator, that this act, which is the basis of your questioning, is based upon the commerce clause, isn't it? So it doesn't have to do with the 14th amendment, or the restraints upon individuals.

Senator THURMOND. Of course this bill is bottomed, so the proponents say, upon both the interstate commerce clause and the 14th amendment, with the expectation that the court would reverse itself and not follow stare decisis with the previous decision.

The language of the bill states, among other things, and I quote: "These citizens, particularly Negroes, are subjected in many places to discrimination and segregation and they are frequently unable to obtain the goods and services available to other interstate travelers."

Assuming that this is an accurate statement, is it a result of State action, or is it a result of individual action?

Mr. WILKINS. Senator, I am sure you will recall a recent decision of the Supreme Court in which the Court held, if I recall with accuracy,

the Court held that the climate of official opinion and practice and custom within a State could be regarded as a persuasive, even compulsive force upon an individual in that State in the conduct of his business and relationships, and that for all intents and purposes the treatment accorded a minority group could be regarded as the result of State action.

I may not have this absolutely accurately, but I think the general purpose is there. I think the intent of the Supreme Court and what they generally said is there.

So that when you say, sir, that if a Negro, if this is an accurate statement of the case that he is deprived of certain things, is this not an action of individuals rather than of a State, I would say to you that while it appears to be an individual action, while it is the hand of Esau, it is the voice of Jacob. It is State action in the sense that State action and tradition and custom are compulsive upon that individual.

Senator THURMOND. If there is no State law or city ordinance pertaining to segregation or discrimination, then how could there be State action, because it would be left to each individual, would it not?

Mr. WILKINS. The Supreme Court in the same decision dealt with that aspect of it as well. And it was substantially as I have stated. Even in the absence of these laws, it will be recalled, I am sure, that a great many of the Southern States, after the decision of 1954, repealed their laws against segregated schools, requiring segregation, on the theory that this would relieve them of action under the *Brown* decision.

Moreover, they went on to repeal their truancy laws so as to give them freedom to permit white students to attend or not to attend schools which they anticipated might be integrated under the *Brown* decision.

I submit, sir, that these actions did not deceive anyone, either the plaintiffs in the particular case or the Federal courts, and that subsequent actions in the courts on the matter of school desegregation went forward as though these actions had not been taken. Which means, it seems to me, to my interpretation—

Senator THURMOND. Those matters you referred to though, were formal action at State level or county or city level, were they not? I'm speaking now of purely private individual businesses.

Mr. WILKINS. Yes. That is true. But in the absence of a State statute or ordinance, it would be private action, or presumed to be private action. But the Court went on to say that it could not be so regarded. The climate of opinion and the customary conduct of business and the well-known attitudes in a State or locality were in effect as compulsive as a State statute and they must be regarded as such.

So that it could not be in your theoretical or hypothetical situation that a proprietor or a series of proprietors, or a group of proprietors who chose to discriminate against Negroes were doing this of their own individual violation, and that it was unreachable by Federal action because it was not, per se, under color of a State statute or law.

Senator THURMOND. Are you attempting to say that the acts of an individual citizen are to be attributable to the State and the State is going to be responsible for the acts of each individual citizen?

Mr. WILKINS. In the context in which the Supreme Court made this pronouncement, yes. That is in the context of denying service on the basis of race.

No one would go so far as to say, certainly not I, that the individual acts of each individual citizen in the United States become a matter for Federal intervention. But in this particular context, yes.

Senator THURMOND. Another paragraph from this bill states, and I quote:

Negroes and members of other minority groups who travel interstate are frequently unable to obtain adequate lodging accommodations during their travels with the result that they may be compelled to stay at hotels or motels of poorer or inferior quality, travel great distances from their normal routes to find adequate accommodations, or make detailed arrangements for lodging far in advance of scheduled interstate travel.

Do you believe that any citizen of the United States has a constitutional right to adequate lodging accommodations during travels?

Mr. WILKINS. I do indeed.

Senator THURMOND. Do you believe that there is a limitation or limitations on the regulatory power of Congress under the commerce clause, and if so what is the extent of the limitation?

Mr. WILKINS. I am sorry, Senator, I am not equipped to answer that. That is a rather technical question.

Senator THURMOND. You don't feel qualified to answer that?

Mr. WILKINS. I don't feel qualified to answer that.

Senator THURMOND. Subsection (e) of the first section of the bill states, and I quote:

Retail establishments in all States of the Union purchase a wide variety and a large volume of goods from business concerns located in other States and in foreign nations. Discriminatory practices in such establishments, which in some instances have led to the withholding of patronage by those affected by such practices, inhibit and restrict the normal distribution of goods in the interstate market.

Do you know of any substantial number of Negroes who have accumulated substantial amounts of money because of the difficulty in finding a place to spend it?

Mr. WILKINS. I am sorry, I don't see the—I wish the Senator would explain the relevancy of this question to the quotation. I would like to answer, I would like to be responsive to that. But the fact that goods, the normal flow of goods would be disturbed by the failure to offer them to travelers who present themselves, or in a circumstance in which those aggrieved persons have instituted withholding purchasing campaigns and thus disrupted the flow of goods, as I recall the quotation read, how does that relate to accumulation of goods by Negroes who have been unable to purchase accommodations?

I am frankly at a loss, Senator. I am not trying to be—

Senator THURMOND. If they didn't purchase the goods, as this would seem to allege here, or the services, then they must have saved that much money, did they not?

Mr. WILKINS. You mean if they were unable to purchase accommodations or food or some other commodity or service—

Senator THURMOND. Or the withholding of patronage, that's right, those affected by the practice if they were inhibited in the normal distribution of goods, would save that money.

If you don't care to answer—

Mr. WILKINS. Senator, I don't want to pass up any of your question because I don't want to be in the position of being discourteous. But it seems to me that if a family has a certain amount of money

to spend on a certain service or commodity or activity, and if it can't spend it in compatible surroundings, it will spend it somewhere else. It just doesn't follow that they will accumulate that. It will put it away.

To say that now, because I can't get a hotel room in Salisbury, N.C., I will save that \$7.60 and put it in my bank—he may get a hotel room in Cincinnati, Ohio.

Senator PASTORE. Will the Senator yield on that point?

Senator THURMOND. I will be glad to yield.

Senator PASTORE. The fact of the matter is, if an individual knows that he may not be welcome in certain places, he might not undertake a trip that ordinarily he might want to do with his family and thereby the economy suffers because of his restraint.

Mr. WILKINS. I think, Senator Pastore, that is true.

Senator PASTORE. I think that is absolutely true.

And a good deal of patronage has gone around certain areas, or, let's say, the merchants in those areas have not realized the profit they would have realized had they had a different policy.

Senator THURMOND. Isn't it true that for a burden to be placed upon interstate commerce, it would be necessary for Congress to find that at least substantial sums of money were not being circulated in this instance because goods and services were not available?

Mr. WILKINS. I don't think Congress would have much difficulty there. It is my opinion that they would find certain dislocations.

Senator THURMOND. If the unavailability of goods and services to persons of particular races is creating a burden on interstate commerce, then it must follow that this burden is created by virtue of the fact that these persons of particular races have funds which probably would be spent in commerce but are not being spent for promoting commerce because the goods and services are not available.

Just as great a burden on commerce would be created if equally substantial funds were placed in savings accounts and thereby withheld from circulation by thrifty-minded persons.

Under your interpretation of the commerce clause, does Congress have the authority to limit the amount of funds which any individual can hold or keep out of circulation in order to prevent this burden on interstate commerce?

Mr. WILKINS. I think, Senator, the question is founded on the assumption that the pending legislation is directed at controlling the savings or the resources of the people of the United States. I don't think legislation is based on that.

It somewhat tenuously might be argued that if you spin out far enough, it will come to that point, but it will have to be spun pretty far.

Senator THURMOND. In your opinion are all modern businesses in this day and time substantially engaged in interstate commerce, and if not, what size, type, or nature of business is so removed from interstate commerce as to be beyond the regulatory powers of Congress under the commerce clause and the Constitution?

Mr. WILKINS. Within the scope of this legislation, do you mean, or is this just a question on the powers of Congress over certain types of business?

I was just speaking in general. I can repeat that if you like.

Senator THURMOND. No, that's all right.

Senator PASTORE. I think the witness would like a clarification of the meaning of the question. I think he is entitled to it.

Mr. WILKINS. I would like to know the relation of this question to the legislation on which I am perfectly willing to be interrogated.

When it comes to a general interpretation of the powers of Congress under the interstate commerce clause on the various types of businesses, size of businesses, nature of businesses, and so forth, then I must confess, sir, my incompetency in this particular field.

Senator THURMOND. Under the bill before you, do you feel that all the little businesses should come under it, too, or just the larger businesses in which there might be more evidence that they are affected by interstate commerce?

Mr. WILKINS. I thank the Senator for that question.

I feel that any business, any business catering to the public, large, small, or intermediate, which discriminates or excludes members of the public because of their race and color, ought to come under the restrictions of this legislation.

I think there ought to be no cutoff, so-called cutoff figure. If a person is in business, period, they are in business and they cater to the general public, and ought to be regulated by this legislation.

Senator THURMOND. It is your opinion then that all the little businesses would come under this bill, too?

Mr. WILKINS. Yes, Senator. I think a little business has no more right to be wrong than a big business.

Senator THURMOND. I know you are familiar with the provisions of S. 1732, and I would like to have your opinion on just what type of action would be covered by the bill.

In the television program which was shown July 22, you stated, and I quote:

Sometimes in the South, as you well know, in many southern ways, you walk into a store and you are ahead. You are the next one to be waited on. But three white people come up and they get waited on first.

In your opinion, would an occurrence of this type be a legitimate subject of complain to the Attorney General under the provisions of this bill, S. 1732?

Mr. WILKINS. No. It wasn't cited as that, Senator, in the television program. It was cited as an example of the little abrasive acts that are constantly occurring and to which all Negroes react in one way or another, and with which we are all familiar. And it all rolls into a bundle and forms this package that I was talking about a moment ago. And this is one of them.

I don't think anybody would complain to the Attorney General about the fact that a clerk waited on three white people. The easiest way is to walk out and spend your money someplace else, where you will get waited on in turn.

Senator THURMOND. That is the American way, isn't it, if a restaurant or merchant or anybody else doesn't treat you right, to go to another place that will treat you right.

That is voluntary action?

Mr. WILKINS. If that is the only store. You are adding a lot of hypothetical situations here now.

We are dealing with a population of 18 million people scattered over some 48 States. And it is not possible here for me at least to draw any general statement to cover all of that.

I said, in more or less jocular fashion, that an easier way than going to the Attorney General in far away Washington would be to walk out and walk to the store that sold what you wanted, that treated you better.

But no store ought to be free to treat you that way. No store ought to be free to do that.

Senator THURMOND. They ought to be forced to serve everybody?

Mr. WILKINS. They ought to be forced to be fair.

Senator THURMOND. What do you mean by fair? To serve them whether they want to or not?

Mr. WILKINS. Exactly, to serve them whether they want to or not. And if they don't want to serve them, Senator, they have an alternative, too, just like the customer walking across the street to another store. They can shut up and go out of business or else serve the people that come in the front door. That is what they are for. That is the reason they opened the door for in the first place, to have people come in and buy.

Senator THURMOND. In other words, their reason for being in business is to serve people rather than make a living themselves?

Mr. WILKINS. No—well, that is the way they make a living, by serving people. But I thought you were going to say it was almost incredible that you would—I thought you were going to say that they are in business to serve people and not to serve just one kind of people.

Senator THURMOND. I think I will finish in the next few minutes, before 12 o'clock.

As we are all aware, there are large numbers of Negro proprietors particularly in the South, who now operate motels and restaurants exclusively for persons of the Negro race. If S. 1732 were to be enacted, what in your opinion will be the immediate effect on this segment of commercial activity?

Mr. WILKINS. You mean would they go out of business, or would they be forced—

Senator THURMOND. Would it hurt their business?

Mr. WILKINS. I don't think it would hurt their business. You see, Senator, a great many people exercise their own discretion as to where they want to go and who they want to be with. They will continue to do this. The only restraint is that no one should be forced not to go where he wants to go.

I don't think this will hurt what you call exclusive Negro business in the South at all. A great deal of that exclusiveness is because of State laws or customs that forbid other people to come there.

I cite you briefly, at the risk of taking 2 more minutes, the fact that when colleges were desegregated, the Negro college, State College of West Virginia, became quickly integrated with an enrollment of white students now approximately 50 to 60 percent of the enrollment, and the Negro State College of Missouri, Lincoln University, at Jefferson City, has a very substantial white enrollment.

I suggest that if any of these Negro businesses to which you refer are really good businesses, catering to the public and rendering service, under this law they would doubtless be catering to the general public

rather than exclusively to the Negro public; that even if they did not, this law would not hurt them.

Senator THURMOND. Mr. Wilkins, the NAACP is an organization about which we hear a great deal. It is my understanding that the organization was founded in 1909. Where and by whom was the NAACP chartered?

Mr. WILKINS. It was chartered under the laws of the State of New York. It is a New York membership corporation.

Senator THURMOND. How many Negro people assisted in founding it, and how many white people?

Mr. WILKINS. I don't recall the exact proportion, Senator. But there were Negro and white founders and incorporators and members of the original board of directors, and members of the original organizing committee, yes.

Senator THURMOND. I believe there were four white people and one Negro, is that right?

Mr. WILKINS. The actual incorporators? I wouldn't be surprised.

Senator THURMOND. Is the NAACP a corporation, a foundation, or an unincorporated association?

Mr. WILKINS. It is a membership corporation under the laws of the State of New York, and its chapters chartered by it are unincorporated associations.

Senator THURMOND. As I understand, it is an unincorporated association, did you say?

Mr. WILKINS. The local chapters are unincorporated associations.

Senator THURMOND. How about the national?

Mr. WILKINS. The national body is a membership corporation.

Senator THURMOND. It is not a corporation?

Mr. WILKINS. It is a corporation.

Senator THURMOND. It is a corporation?

Mr. WILKINS. It is, Yes, sir.

Senator THURMOND. In what State is it chartered, did you say?

Mr. WILKINS. In New York, in 1911.

Senator THURMOND. What is the governing body of the NAACP, and who forms the policy of the organization?

Mr. WILKINS. The governing body is a national board of directors which is elected by the membership in a rather elaborate form.

The policy is made at the annual conventions through the adoption of resolutions by the delegates from the local chapters. These resolutions become the policy of the association and are executed by a staff and by the board of directors which acts in between conventions. The board of directors is also free to form policy between conventions, or to elaborate upon policy already adopted. But the basic policy is adopted by the delegates to the national conventions.

Senator THURMOND. Did you say the officers and directors of the NAACP are elected by a vote of the membership?

Mr. WILKINS. They are; that is, the members of the board of directors are elected by the membership. The officers, that is the secretary, treasurer, the vice president, are elected by the board itself.

Senator THURMOND. Who is your present president?

Mr. WILKINS. The president is Arthur B. Spingarn, a lawyer.

Senator THURMOND. Is he a Negro?

Mr. WILKINS. No, he is not.

Senator THURMOND. He is a white person?

Mr. WILKINS. He is.

Senator THURMOND. What are the requirements for membership and how many members of the NAACP are there?

Mr. WILKINS. There are approximately 400,000. I think 398,000, or 401,000, something like that.

The requirement for membership is the support of principles of the organization, equality of opportunity, and getting rid of segregation and discrimination.

It is understood that a person should be of good moral character, as far as you can determine at the time of inspection.

Senator THURMOND. Is William DuBois still the honorary president of the NAACP?

Mr. WILKINS. He never has been, either honorary president or president, or chairman of the board, or executive secretary.

Senator THURMOND. He was listed as honorary president at one time.

Mr. WILKINS. Well, sir; I am sorry, that was an error. Dr. DuBois' title from the time he began his work with the association in 1910 until he ended it in 1934 was director of publications and research.

Senator THURMOND. He was director of publications and research?

Mr. WILKINS. That was his title.

Senator THURMOND. Is he still in Ghana?

Mr. WILKINS. As far as I know.

Senator THURMOND. It is my understanding that in 1951 he joined the Communist Party; is that correct?

Mr. WILKINS. I read the same report you did, I think. I haven't been in touch with Dr. DuBois since 1934. He left the association then and went to Atlanta to teach, and he remained in Atlanta for some time, long enough to be pensioned by them.

Senator THURMOND. How are the regional directors of the NAACP selected?

Mr. WILKINS. Regional directors?

Senator THURMOND. Regional directors.

Mr. WILKINS. Do you mean the executive officers in the regional offices?

Senator THURMOND. That is correct. Those who are in active work.

Mr. WILKINS. Active charge. They are staff members, and they are appointed and selected by the staff, by the executive secretary.

Senator THURMOND. Appointed by you?

Mr. WILKINS. That is right.

Senator THURMOND. Are you, as executive secretary of the NAACP, responsible for their supervision?

Mr. WILKINS. I am responsible for the supervision of the staff.

Not for the volunteer personnel, but for the staff.

Senator THURMOND. We had testimony before this committee that one Clarence Laws was a regional director of the NAACP; is that correct?

Mr. WILKINS. He is.

Senator THURMOND. We also had testimony that Clarence Laws was discharged from the U.S. Army as a Reserve commissioned officer in the interests of national security. According to the testimony, the discharge was predicated upon Laws' activity in connection with the

Southern Conference Educational Fund, Southern Negro Youth Congress, and the Committee Against Jim Crow in military service and training. The Southern Negro Youth Congress is cited as subversive on the Attorney General's list. Do you know if these charges are correct, and if correct, what is the policy of the NAACP with regard to participation in such organizations by its officers?

Mr. WILKINS. In the first place, all those charges were subsequently found—thrown out.

In the second place, whatever the allegations, they touched upon activities prior to the time Mr. Laws became a member of our staff.

But since that time he has carried on a continuous campaign to secure vindication on these charges, and has been vindicated—I haven't with me now the—by a proper tribunal it was found that these charges were not justifiable.

Senator THURMOND. Do you mean to say that he was not discharged from the Army in the interests of national security?

Mr. WILKINS. I don't mean to say that, sir. I mean to say that such a discharge was successfully challenged by him, and he won later vindication. I will be glad to submit for the files of this committee the documents that Mr. Laws has in this respect.

Senator PASTORE. Is there any objection to that suggestion?

The Chair hears none. It is so ordered.

(The information to be supplied for the record was not received prior to printing. Upon receipt it will be retained in the committee files for public inspection.)

Senator THURMOND. You may answer.

Mr. WILKINS. I was saying, I don't recall the exact language, but I am sure that I can furnish this material for the committee.

I would say for the record, since this has been brought up, that Mr. Laws is a devout Catholic, and is one of the best and most conscientious staff members that we have in our entire service, and that his service in the southwestern region, where he is the regional secretary for Oklahoma, Arkansas, Louisiana and New Mexico, has been of a high order, and has been characterized by the most professional conduct.

We have every confidence in him, and do not believe that these allegations, many of which in circumstances similar to his, grew out of the resentment of Negro enlisted men and officer material over their treatment in the armed services, such as the Committee to Abolish Discrimination in the Armed Forces, we do not regard this as subversive activity.

Senator THURMOND. In spite of the fact that this organization was on the Attorney General's subversive list?

Mr. WILKINS. As I repeat, Senator, all of these charges and the allegations made against Mr. Laws have subsequently been cleared.

I might say for the Senators' information, although I don't know whether he may or may not have this, that in some Army records and reports membership in the NAACP is noted on the enlisted man's personnel record as though that were subversive.

This kind of loose classification is one to which we cannot subscribe. So, the mere assertion, even in an Army document, that this or that affiliation held true, does not necessarily convince us, nor did it convince Mr. Laws, and he proceeded to win his vindication on this point.

I am sure the Senator would be glad to have that if it were true. Senator THURMOND. Mr. Wilkins, I am glad I can finish with you, at least so far as I am concerned, about 12 o'clock.

I wish to thank you, Mr. Chairman.

That concludes my questioning.

Senator PASTORE. At this time I would like to make part of the record a letter dated July 3, 1963, addressed to Senator Gale McGee, from the Wyoming Council of Churches in Casper, Wyo.

The letter follows:

WYOMING COUNCIL OF CHURCHES,
Casper, Wyo., July 3, 1963.

HON. GALE MCGEE,
U.S. Senator, Capitol Building,
Washington, D.C.

DEAR SIR: As the executive secretary of the Wyoming Council of Churches which represents over 200 congregations within our State, I am writing you to express our deep concern over the crisis that our Nation faces in regard to the racial problem.

As Christians we recognize that the church along with many other institutions in our country has been guilty of contributing to the prolongation of discrimination. For our part in this we truly repent and ask God's forgiveness. We are also very much aware that too often the church has sat on the sidelines and not spoken out on behalf of those who have not been granted equal rights and the individual freedom that our Nation, as well as our Christian faith, would assure every man.

We realize that many of the problems that are involved in the struggle that the minority groups are going through to gain freedom and equality cannot easily be solved by legislation. Such gifts can only be fully realized when the attitudes of all people are to open the doors for all men regardless of race or creed to enjoy them. However, we do feel that our Government must pass laws which will insure beyond a doubt the opportunity for all minority groups to obtain these inalienable rights.

Therefore we would urge you to do all in your power to see that such legislation is enacted without undue delay. We fully realize that there are no simple answers and that a great deal of wisdom and thought will have to be given to whatever legislation is passed by the Congress. We only hope and pray that partisan politics and selfish motivations will not becloud the issues to such a point that any real solution to the problem cannot be reached.

Knowing your concern for the basic issues involved we urge you to do everything in your power to insure the passage of the kind of legislation that will help our Nation truly become a nation where all men are free and have equal opportunity. We assure you of our prayers and best wishes.

Sincerely yours,

PAUL WM. FUNK, *Executive Secretary.*

Senator PASTORE. Before we adjourn, I really want to say to you, Mr. Wilkins, that I compliment you for your responsiveness to the questions. I compliment you for your clarity of discussion. I compliment you for the temperance of your beliefs. Your performance before this committee, whether anyone agrees with me or not, is a credit to you and a credit to your cause.

The Senator from Michigan.

Mr. WILKINS. Thank you, Mr. Chairman.

Senator HART. You said it, Mr. Chairman. I am one of the 401,000 members of the NAACP. As a duespayer, I want to say that our executive secretary performed very well.

I should add, as I told you, my first membership in the NAACP was purchased for me by my father when I was still in high school. I am proud of him for that action.

Senator PASTORE. Are there any further questions of this witness?

Senator SCOTT. I would simply say, Mr. Chairman, that I think you have already expressed my sentiments. I am not a member of the NAACP. I want to say my daughter joined the organization at the age of 17, I think.

I congratulate the witness on this fine presentation.

Senator PASTORE. You are now excused, Mr. Wilkins.

Mr. WILKINS. Thank you, Mr. Chairman. Thank you, members of the committee.

Senator PASTORE. We will recess this hearing until 9:15 tomorrow morning in room 818 of the Old Senate Office Building.

(Whereupon, at 12 noon, the committee hearing in the above matter was adjourned, to reconvene the following day at 9:15 a.m.)

CIVIL RIGHTS—PUBLIC ACCOMMODATIONS

FRIDAY, JULY 26, 1963

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met, pursuant to recess, at 9:15 a.m., in room 318, Senate Office Building, John O. Pastore presiding.

Senator PASTORE. This morning I am pleased to open our hearing with the Honorable Ivan Allen, Jr., mayor of Atlanta, Ga. The committee is grateful for the time and interest of the mayor in this public accommodations civil rights bill, and I am certain his views will be most constructive.

The chairman would like to announce that in view of the time requirements of the railroad work rules legislation, we will have to continue civil rights hearings through the balance of next week. Our present plan is to run every morning of next week and conclude on Friday, August 2, 1963.

The reason for my saying that is that I was asked by the press when we would expect to conclude our hearings on civil rights. I think I said Wednesday. Because of other developments we have to extend it for another 2 days. That will be next week, at any rate.

Mayor Allen, your honor, will you come forward and comfortably locate yourself in one of those chairs?

STATEMENT OF IVAN ALLEN, JR., MAYOR OF ATLANTA, GA.

Mayor ALLEN. Thank you, sir.

Senator PASTORE. Mayor, you have submitted a written statement to the committee. I am going to ask you to present it any way you like.

Mayor ALLEN. Thank you very much, Senator.

I am honored to appear before your committee.

At the beginning I would like to make it clear that I feel qualified to speak on the subject under discussion which is the elimination of racial discrimination, on what I have learned from personal experience and observation in my home city of Atlanta, Ga. As perceptive men of wide experience I feel confident that you will agree with me that this is as serious a basic problem in the North, East, and West as it is in the South.

It must be defined as an all-American problem, which requires an all-American solution based on local thought, local action, and local cooperation.

The 500,000 people who live within our city limits consists of 300,000 white citizens and slightly more than 200,000 Negro citizens. That makes the population of Atlanta 60 percent white, 40 percent Negro.

That 60-40 percentage emphasizes how essential it is for the people of Atlanta, on their local level, to solve the problem of racial discrimination in order to make Atlanta a better place in which to live.

Elimination of racial discrimination is no far-off philosophical theory to the more than 1 million people who live in and around Atlanta. The problem is part and parcel of our daily lives. Its solution must be studied and worked out on our homefront.

As the mayor of the Southeast's largest city, I can say to you out of firsthand experience and firsthand knowledge that nowhere does the problem of eliminating discrimination between the races strike so closely home as it does to the local elected public official. He is the man who cannot pass the buck.

From this viewpoint, I speak of the problem as having been brought into sharp focus by decisions of the Supreme Court of the United States and then generally ignored by the Presidents and Congresses of the United States. Like a foundling baby, this awesome problem has been left on the doorsteps of local governments throughout the Nation.

Now to take up specifics. You gentlemen invited me to tell you how Atlanta has achieved a considerable measure of comparative success in dealing with racial discrimination.

It is true that Atlanta has achieved success in eliminating discrimination in areas where some other cities have failed, but we do not boast of our success. Instead of boasting, we say with the humility of those who believe in reality that we have achieved our measure of success only because we looked facts in the face and accepted the Supreme Court's decisions as inevitable and as the law of our land. Having embraced realism in general, we then set out to solve specific problems by local cooperation between people of good will and good sense representing both races.

In attacking the specific problems, we accepted the basic truth that the solutions which we ought to achieve in every instance granted to our Negro citizens rights which white American citizens and businesses previously had reserved to themselves as special privileges.

These special privileges long had been propped up by a multitude of local ordinances and statewide laws which had upheld racial segregation in almost every conceivable form.

In Atlanta we had plenty of these props of prejudice to contend with when we set out to solve our specific problems of discrimination. In attacking these problems, I want to emphasize that in not one single instance have we been able to retain or enhance the privileges of segregation.

It had been a long, exhausting and often discouraging process and the end is far from being in sight.

In the 1950's Atlanta made a significant start with a series of reasonable eliminations of discrimination such as on golf courses and public transportation. We began to become somewhat conditioned for more extensive and definitive action, which has been taking place in the 1960's.

During the past 2½ years, Atlanta has taken the following major steps to eliminate racial discrimination:

1. In September, 1961, we began removing discrimination in public schools in response to a court order.

2. In October, 1961, lunch counters in department and variety stores abolished discrimination by voluntary action.

3. On January 1, 1962, Atlanta city facilities were freed from discrimination by voluntary action of municipal officials.

4. In March 1962, downtown and art theaters, of their own volition, abolished discrimination in seating.

5. On January 1, 1963, the city voluntarily abolished separate employment listings for whites and Negroes.

6. In March 1963, the city employed Negro firemen. It long ago had employed Negro policemen.

7. In May of 1963 the Atlanta Real Estate Board (white) and the Empire Real Estate Board (Negro) issued a statement of purposes, calling for ethical handling of real estate transactions in controversial areas.

8. In June 1963, the city government opened all municipal swimming pools on a desegregated basis. This was voluntary action to comply with a court order.

9. Also in June 1963, 18 hotels and motels, representing the leading places of public accommodations in the city, voluntarily removed all segregation for conventions.

10. Again in June 1963, more than 30 of the city's leading restaurants, of their own volition, abolished segregation in their facilities.

You can readily see that Atlanta's steps have been taken in some instances in compliance with court decisions, and in other instances the steps have been voluntary prior to any court action. In each instance the action has resulted in white citizens relinquishing special privileges which they had enjoyed under the practices of racial discrimination. Each action also has resulted in the Negro citizen being given rights which all others previously had enjoyed and which he had been denied.

As I mentioned at the beginning, Atlanta has achieved only a measure of success. I think it would assist you in understanding this if I explained how limited so far has been this transition from the old segregated society of generations past, and also how limited so far has been the participation of the Negro citizens.

Significant as is the voluntary elimination of discrimination in our leading restaurants, it affects so far only a small percentage of the hundreds of eating places in our city.

And participation by Negroes so far has been very slight. For example, one of Atlanta's topmost restaurants served only 16 out of Atlanta's 200,000 Negro citizens during the first week of freedom from discrimination.

The plan for eliminating discrimination in hotels as yet takes care only of convention delegates. Although prominent Negroes have been accepted as guests in several Atlanta hotels, the Negro citizens, as a whole, seldom appear at Atlanta hotels.

Underlying all the emotions of the situation, is the matter of economics. It should be remembered that the right to use a facility does not mean that it will be used or misused by any group, especially the groups in the lower economic status.

The statements I have given you cover the actual progress made by Atlanta toward total elimination of discrimination.

Now I would like to submit by personal reasons why I think Atlanta has resolved some of these problems while in other cities, solutions have seemed impossible and strife and conflict have resulted.

As an illustration, I would like to describe a recent visit of an official delegation from a great eastern city which has a Negro population of over 600,000 consisting of in excess of 20 percent of its whole population.

The members of this delegation at first simply did not understand and would hardly believe that the business, civic and political interests of Atlanta had intently concerned themselves with the Negro population. I still do not believe that they are convinced that all of our civic bodies backed by the public interest and supported by the city government have daily concerned themselves with an effort to solve our gravest problem which is relations between our races. Gentlemen, Atlanta has not swept this question under the rug at any point. Step by step, sometimes under court order, sometimes voluntarily moving ahead of pressures, sometimes adroitly, and many, many times clumsily, we have tried to find a solution to each specific problem through an agreement between the affected white ownership and the Negro leadership.

To do this we have not appointed a huge general biracial committee which too often merely becomes a burial place for unsolved problems. By contrast, each time a specific problem has come into focus, we have appointed the people involved to work out the solution—theater owners to work with the top Negro leaders, or hotel owners to work with the top leadership, or certain restaurant owners who, of their own volition, dealt with the top Negro leadership. By developing the lines of communication and respectability, we have been able to reach amicable solutions.

Atlanta is the world's center of Negro higher education. There are six great Negro universities and colleges located inside our city limits. Because of this, a great number of intelligent, well-educated Negro citizens have chosen to remain in our city. As a result of their education they have had the ability to develop a prosperous Negro business community. In Atlanta it consists of financial institutions like banks, building and loan associations, life insurance companies, chain drug-stores, real estate dealers. In fact, they have developed business organizations, I believe, in almost every line of acknowledged American business. There are also many Negro professional men.

Then there is another powerful factor working in the behalf of good racial relations in our city. We have news media, both white and Negro, whose leaders strongly believe and put into practice the great truth that responsibility of the press—and by this I mean radio and television as well as the written press—is inseparable from freedom of the press.

The leadership of our written, spoken, and televised news media join with the business and government leadership, both white and Negro, in working to solve our problems.

We are fortunate that we have one of the world famous editorial spokesmen for reason and moderation on one of our white newspapers, along with other editors and many reporters who stress significance rather than sensation in the reporting and interpretation of what happens in our city.

And we are indeed fortunate in having a strong Negro daily newspaper, the Atlanta Daily World, and a vigorous Negro weekly, the Atlanta Inquirer.

The Atlanta Daily World is owned by a prominent Negro family, the Scott family, which owns and operates a number of other newspapers.

The sturdy voices of the Atlanta Daily World and the Atlanta Inquirer, backed by the support of the educational, business and religious community, reach out to our Negro citizens. They speak to them with factual information upon which they can rely. They express opinions and interpretations in which they can have faith.

As I see it, our Negro leadership in Atlanta is responsible and constructive. I am sure that our Negro leadership is as desirous of obtaining additional civic and economic and personal rights as is any American citizen. But by constructive I mean to define Atlanta's Negro leadership as being realistic—as recognizing that it is more important to obtain the rights they seek than it is to stir up demonstrations. So it is to the constructive means by which these rights can be obtained that our Negro leaders constantly address themselves. They are interested in results instead of rhetoric. They are realists, not rabble rousers. Along with integration, they want integrity.

I do not believe that any sincere American citizen desires to see the rights of private business restricted by the Federal Government unless such restriction is absolutely necessary for the welfare of the people of this country. On the other hand, following the line of thought of the decisions of the Federal courts in the past 15 years, I am not convinced that current rulings of the courts would grant to American business the privilege of discrimination by race in the selection of its customers.

Here again we get into the area of what is right and what is best for the people of this country. If the privilege of selection based on race and color should be granted, then would we be giving to business the right to set up a segregated economy? And if so, how fast would this right be utilized by the Nation's people? And how soon would we again be going through the old turmoil of riots, strife, demonstrations, boycotts, picketing?

Are we going to say that it is all right for the Negro citizen to go into the bank on Main Street and to deposit his earnings or borrow money, then to go to department stores to buy what he needs, to go to the supermarket to purchase food for his family, and so on along Main Street until he comes to a restaurant or a hotel—in all these other business places he is treated just like any other customer—but when he comes to the restaurant or the hotel, are we going to say that it is right and legal for the operators of these businesses, merely as a matter of convenience, to insist that the Negro's citizenship be changed and that, as a second-class citizen he is to be refused service? I submit that it is not right to allow an American's citizenship to be changed merely as a matter of convenience.

If the Congress should fail to clarify the issue at the present time, then by inference it would be saying that you could begin discrimination under the guise of private business. I do not believe that this is what the Supreme Court has intended with its decisions. I do not believe that this is the intent of Congress or the people of this country.

I am not a lawyer, Senators. I am not sure I clearly understand all of the testimony involving various amendments to the Constitution and the commerce clause which has been given to this committee. I have a fundamental respect for the Constitution of the United States. Under this Constitution we have always been able to do what is best for all of the people of this country. I beg of you not to let this issue of discrimination drown in legalistic waters. I am firmly convinced that the Supreme Court insists that the same fundamental rights must be held by every American citizen.

Atlanta is a case that proves that the problem of discrimination can be solved to some extent—and I use this "some extent" cautiously—as we certainly have not solved all of our problems; but we have met them in a number of areas.

This can be done locally, voluntarily, and by private business itself.

On the other hand, there are hundreds of communities and cities, certainly, throughout the Nation, that have not ever addressed themselves to the issue. Whereas others have flagrantly ignored the demand, and today stand in all defiance to any change.

The Congress of the United States is now confronted with a grave decision. Shall you pass a public accommodation bill that forces this issue? Or, shall you create another round of disputes over segregation by refusing to pass such legislation?

Surely the Congress realizes that after having failed to take any definite action on this subject in the last 10 years, to fail to pass this bill would amount to an endorsement of private business setting up an entirely new status of discrimination throughout the Nation. Cities like Atlanta might slip backward.

Hotels and restaurants that have already taken this issue upon themselves and opened their doors might find it convenient to go back to the old status. Failure by Congress to take definite action at this time is by inference an endorsement of the right of private business to practice racial discrimination and, in my opinion, would start the same old round of squabbles and demonstrations that we have had in the past.

Gentlemen, if I had your problem, armed with the local experience I have had, I would pass a public accommodations bill. Such a bill, however, should provide an opportunity for each local government first to meet this problem and attempt to solve it on a local, voluntary basis, with each business making its own decision. I realize that it is quite easy to ask you to give an opportunity to each businessman in each city to make his decision and accomplish such an objective, but it is extremely difficult to legislate such a problem.

What I am trying to say is that the pupil placement plan, which has been widely used in the South, provided a timetable approved by the Federal courts which helped in getting over the troubled water of elimination of discrimination in public schools. It seems to me that cities working with private business institutions could now move into the same area and that the Federal Government legislation should be based on the idea that those businesses have a reasonable time to accomplish such an act.

I think a public accommodation law now should stand only as the last resort to assure that discrimination is eliminated, but that such

a law would grant a reasonable time for cities and businesses to carry out this function before Federal intervention.

It might even be necessary that the time factor be made more lenient in favor of smaller cities and communities, for we all know that large metropolitan areas have the capability of adjusting to changes more rapidly than smaller communities.

Perhaps this, too, should be given consideration in your legislation. But the point I want to emphasize again is that now is the time for legislative action. We cannot dodge the issue. We cannot look back over our shoulders or turn the clock back to the 1860's. We must take action now to assure a greater future for our citizens and our country.

A hundred years ago the abolishment of slavery won the United States the acclaim of the whole world when it made every American free in theory.

Now the elimination of segregation, which is slavery's stepchild, is a challenge to all of us to make every American free in fact as well as in theory—and again to establish our Nation as the true champion of the free world.

Mr. Chairman and members of the committee, I want to thank you for the opportunity of telling you about Atlanta's efforts to provide equality of citizenship to all within its borders.

Thank you very much.

Senator PASTORE. Mr. Mayor, this morning you rendered to me the honor of identifying yourself with me. You made a casual statement to the effect, and I think I quote you substantively, that every time you come before a committee of the Congress such as this, you are very much impressed and very much frightened. I retorted by saying to you that I am happy that you should be impressed, but I hoped you wouldn't be frightened.

After the statement you made here today, sir, let me say that I am humbled in your presence.

I think that President Kennedy, when he wrote "Profiles in Courage" must have been thinking of men such as you, for individuals like me, or possibly the Senator from Michigan, where we live in a locality where, generally speaking, we are reported as being for civil rights, we believe in it as moral righteousness that should be preserved and should be respected and granted to all American citizens.

From whence you come, your position is much more difficult because there are sincere people in your city who disagree with the position that you take, which sometimes places you in a position of embarrassment, and sometimes in a position of harassment.

When a man like you comes before this committee today and recites this story in such forthright manner, with such courage, I am proud to be here to listen to you, sir.

Mayor ALLEN. Thank you, sir. I appreciate your kind remarks.

Senator PASTORE. Senator Thurmond.

Senator THURMOND. Mayor Allen, I observe that you are endorsing this so-called public accommodations bill, is that correct?

Mayor ALLEN. I am endorsing it with the hope that certain time provisions could be provided to give the opportunity of both local governments and private business to make reasonable efforts to resolve

this issue satisfactorily before the Government comes in. That is my recommendation, yes, sir.

Senator THURMOND. I observe from what you say that the progress that has been made in your city, though, in almost all cases, has been by voluntary action.

Mayor ALLEN. Yes, sir; it has been under court decisions and under the pressures of meeting the expedient situations. But in many instances it has been by voluntary action.

Senator THURMOND. In the schools I believe there was a court order.

Mayor ALLEN. Sir?

Senator THURMOND. In the schools, I believe, there was a court order.

Mayor ALLEN. A court order and then a plan worked out, Senator, that was accepted by the court, and under which we have been proceeding since then.

Senator THURMOND. In the lunch counters and department and variety stores, this was voluntary action?

Mayor ALLEN. That is correct, sir.

Senator THURMOND. In the city's facilities, this was voluntary action?

Mayor ALLEN. Yes, sir; that is correct, sir.

Senator THURMOND. And downtown, in the arts and theaters, I believe this was voluntary action.

Mayor ALLEN. That is correct, sir. And there has been additional voluntary action, Senator, on the part of the neighborhood theaters on Monday of this week, which I had not received information on, so that is another addition of the voluntary action.

Senator THURMOND. On separate employment listings, I believe this was voluntary action.

Mayor ALLEN. That is correct.

Senator THURMOND. Employing firemen, I believe, was voluntary action, as it was with the policemen.

Mayor ALLEN. That is correct.

Senator THURMOND. The handling of real estate, I believe, was voluntary action.

Mayor ALLEN. That is correct.

Senator THURMOND. I believe the swimming pools was voluntary action.

Mayor ALLEN. That was a court order that said that the pools, if opened, had to be opened to all people, all citizens, and then it was voluntary action on the part of the city council to open.

Senator THURMOND. It was voluntary action as to whether it would be closed or remain open?

Mayor ALLEN. That is correct.

Senator THURMOND. And the voluntary action of the city was to keep them open.

Mayor ALLEN. Yes, sir.

Senator THURMOND. So in effect it was voluntary action?

Mayor ALLEN. That is correct.

Senator THURMOND. And the 18 hotels and motels you mentioned, I believe that was voluntary action?

Mayor ALLEN. That is correct, sir.

Senator THURMOND. And I believe that 30 of the leading restaurants that now serve all people, I believe that was voluntary action?

Mayor ALLEN. That is correct, sir.

Senator THURMOND. So in every case, you might say, in Atlanta, where facilities are open to all now, was the result of voluntary action, was it not, except one, the schools?

Mayor ALLEN. And the swimming pools.

Senator THURMOND. The swimming pools was a decision which you made to keep them open.

In other words, out of the 10 points you mentioned, 8 were definitely and exclusively voluntary action.

Mayor ALLEN. That is correct, sir.

Senator THURMOND. One was a court action, with the schools, the other was a court action on the pools, which you could have made a decision to keep open or closed, but you choose to keep them open.

Mayor ALLEN. That is correct.

Senator THURMOND. Don't you feel that less tension results when there was voluntary action?

Mayor ALLEN. Senator, that would require a very lengthy explanation. I think I will attempt to answer you by saying this: That in each of those instances there was long and tedious efforts made to resolve them in Atlanta on a free will basis, that is, a voluntary action, as I have described there.

Repeatedly we were confronted with the fact that we had no definition in many instances, and it was repeatedly said, if there had been some clear-cut objective which we could have moved towards, it would have made it much easier.

I have heard dozens of business people say that where there has been a court order with this issue being as temperamental and as strong as it is in our section of the country, I repeatedly heard business people say that if there had been definition by the Congress, or if there had been a court order, that it made it so much easier to do what they felt that they were being forced to do under the Supreme Court's decision.

Senator THURMOND. Mr. Mayor, of course, if you had a law on the subject, then it would be compulsory, so there wouldn't be any discretion; it would be a matter of conforming to the law or going to jail or paying a fine, would it not?

Mayor ALLEN. Yes, sir; that is quite right.

Senator THURMOND. So there wouldn't be so much voluntary action, would there?

Mayor ALLEN. That is correct.

Senator THURMOND. Does the city of Atlanta have an ordinance on these matters?

Mayor ALLEN. On public accommodations?

Senator THURMOND. Yes.

Mayor ALLEN. No, sir; we have no public accommodations ordinance.

Senator THURMOND. You found you can make better progress from a voluntary standpoint with less tension, I imagine.

Mayor ALLEN. The city attorney advises us that the city does not have the authority to pass a public accommodations ordinance under the charter that is granted us by the State. We do not have the right to pass a public accommodations ordinance.

Senator THURMOND. Would you want to pass one if you could?

Mayor ALLEN. I would think that in keeping with what I had testified on the bill here, that it would have made it much easier to have brought this about in Atlanta and it would have made it more acceptable to the hotel owners. Yes, sir; I think it would have helped.

Senator THURMOND. You could apply to amend your charter yet if you think it is advisable?

Mayor ALLEN. Yes, sir.

Yes, sir; we could do that.

Senator THURMOND. Do you plan to do that?

Mayor ALLEN. No, sir.

Senator THURMOND. Although you think it would help if you could amend the charter?

Mayor ALLEN. We have pretty well gotten over part of that in Atlanta at this time, sir. We have had a voluntary acceptance.

Senator THURMOND. Do you think it better to have a law and ordinance by the city or would it be better to have a statewide law, or a law by the Federal Government?

Mayor ALLEN. Senator, I would say a definition at a national level, as I believe I expressed my sentiments along this line, that this situation a number of years ago was brought into significant focus by the Supreme Court, that sometimes we can't clearly define where we should go and what we should do, and yet these pressures are always there. The Court decisions continue. They come up from time to time. In each instance they have always said that none of your segregated ordinances are any good. And most of them, many of them still remain on the books of the city of Atlanta. They haven't been taken off. We have dozens of ordinances in regard to segregation. They are still there.

Somehow or other we have managed to get by most of them. I feel that if we had clear definition from the Congress of the United States, that if the Congress would say what it thinks should be done in regard to the Supreme Court decisions—and I am speaking only in the general terms of a layman, not a lawyer. I am not a lawyer.

Senator THURMOND. Which Supreme Court decisions?

Mayor ALLEN. The Supreme Court decisions dating all the way back from the elimination of the Democratic primary—not elimination of the primary but the right to vote in the primary, the school decisions, the Louisiana cases in regard to whether you can go in or out. I am not a lawyer, I can't describe each one of them, sir. But the general tenor of the Supreme Court has been that you can't refuse to give the same right to the Negro that you give to the white man anywhere in the United States.

And the general tenor of those court decisions has repeatedly left us up in the air, and it ends up at a local level, and we don't have definition in enough instances.

Senator THURMOND. If you had to have a law on the subject, would you think it better to have a State law, or a Federal law?

As you know, conditions in the States are different from one part of the country to another.

Mayor ALLEN. Yes, sir; they are different in many respects. But the decision of the Supreme Court is the same in all of our States. The Supreme Court brought this into focus. They put this respon-

sibility on us. I feel that it is the responsibility of the Congress to make it more—let's use the word—acceptable, or palatable, or make it possible for us to carry it out with cleaner definitions.

Senator THURMOND. Of course, a law from either standpoint, the State or the Federal, would mean compulsion, would it not?

Mayor ALLEN. Would mean—

Senator THURMOND. In other words, the purpose of the law would be to bring compliance, and would require compulsion.

Mayor ALLEN. Senator, it is a question of whether you are speaking of the law would require—it would compel that the same rights be given to the Negro citizen that are given to the white citizen. Yes; I guess that would be compulsion.

Senator THURMOND. Therefore, a Federal law would mean compulsion. It would mean compulsion on the people of a State, whether people wanted it or not. It would mean compulsion on the people of a city, whether people of the city wanted it or not.

Senator PASTORE. What people are we talking about?

Senator THURMOND. The majority of the people.

Mayor ALLEN. Senator, I think any Federal law exercises some compulsion over the citizens of the United States.

Senator THURMOND. That would be the only purpose of it, of course.

Mayor ALLEN. I think so.

Senator THURMOND. May I ask you this: Do you think this law, since you favor this Federal law, do you feel it should apply to all businesses or just the larger businesses and exclude the smaller ones?

Mayor ALLEN. As I understand it, it applies to those businesses that are in interstate commerce. And this, to my basic way of thinking, provides certain time protections and gives an opportunity for adjustments to be made on a reasonable basis.

I take it as applying only to those businesses in interstate commerce.

Senator THURMOND. In your city of Atlanta, to take one of your restaurants there, could you tell us which ones you feel would fall under this law, and which would not? Could you cite some examples, giving us one of each?

Mayor ALLEN. I would say that those larger restaurants that are generally made available to the transient who comes through Atlanta would fall under it, and that the small neighborhood restaurant probably would not fall under it. There again, I am not qualified to interpret the law in that sense.

Senator THURMOND. On yesterday—I don't guess you heard his testimony—Mr. Roy Wilkins, the executive secretary of the NAACP, said he felt the bill would apply to all businesses and he said he felt it should; that a little business should have no more right to discriminate, as he called it, than a big business. Is that your feeling?

Mayor ALLEN. No, sir.

Senator THURMOND. Or is it your feeling that there should be delineation?

Mayor ALLEN. I would say this, that I expect Mr. Wilkins and I would disagree on a great number of issues. But my interpretation of interstate commerce is fairly plain in my own mind from having been 25 years as a businessman and having been under the Wage and Hour Act and other things that are applicable along the same lines, and my interpretation of it would be the larger restaurants that are generally in interstate trade.

Senator THURMOND. Then those that cater chiefly to the interstate trade—is that your idea?

Mayor ALLEN. Interstate trade; yes.

Senator THURMOND. Interstate trade.

Mayor ALLEN. That is my understanding.

Senator THURMOND. Therefore a restaurant in Atlanta, even though it has a large business, that caters only to Atlanta people, Georgia people would not be affected by this, in your opinion?

Mayor ALLEN. I think that they would be excepted. It would be purely a matter of voluntary decision on their part.

Senator THURMOND. And so if this law should pass, if a restaurant in Atlanta wanted to cater to Georgia people only, and announce that, and would not serve or care to serve any out-of-State people, you do not feel the law would be applicable?

Mayor ALLEN. Senator, I have to beg ignorance on interpretation of the law from a legal viewpoint because I am not a lawyer.

I have read this bill, I guess, 10 or 12 times, and I understand that, I believe the general significance of it from the viewpoint of the average American citizen that reads it.

My interpretation of it is that it is primarily directed at those businesses in what we generally recognize as interstate trade or commerce.

Senator THURMOND. Is this bill clear in your mind just which restaurants in Atlanta would be affected and which would not?

Mayor ALLEN. No, sir. It is not absolutely clear in my mind as to which restaurants would be affected and which would not. I could answer it in general, I think, but I couldn't answer specifically on each one of hundreds of restaurants.

But I would say that the large downtown restaurants that generally receive and accept the business of the transient would be affected by it; that the restaurant sitting on the Interstate Highway Systems with people passing back and forth would be affected by it.

But the small neighborhood restaurant would still retain pretty much its present status until it made a decision.

Senator THURMOND. In order to determine definitely whether a person is an out-of-State person or a local person, do you feel each restaurant should or ought to be required to keep a list of customers and where they are from?

Mayor ALLEN. Senator, I couldn't answer you on that.

Senator THURMOND. Mr. Mayor, so your position is that you favor this Federal legislation?

Mayor ALLEN. Yes, sir.

Senator THURMOND. And you favor it in spite of the 5th and 14th amendments which provide that no person shall be deprived of his property without due process of the law?

Mayor ALLEN. Yes, sir, I favor it under the Constitution of the United States.

Senator THURMOND. And you favor it in spite of the provision of the Constitution that no person shall have his property taken, whether by condemnation or otherwise, without just compensation?

For instance, if this bill should result in destroying his business, as evidence has been brought out before these hearings has been done in some cases, in other instances where integration did take place, which would be equivalent to a taking under the Constitution, you would still favor this bill?

Mayor ALLEN. Senator, that is a type question which makes it hard to give a specific answer to because I think you know that I am not in favor of the destruction of any free enterprise business or the property rights of any American citizen.

I think that when we reach a point in a situation that has been created like this one, which has been brought into focus by the Supreme Court, and, gentlemen, remember every American citizen looks on the Supreme Court with a schoolboy's reverence, and we look on the Supreme Court as a major responsibility of the U.S. Senate.

The President doesn't create the Supreme Court over the years. President Kennedy only has two appointees on it. President Eisenhower has four on it. I guess still some of us--Roosevelt's appointees are on there.

But you are the gentlemen who, through the years, have approved or not approved the appointments to the Supreme Court of the United States. And this is your Court, or our Court, that has brought this issue into focus.

And now you ask me about the destruction of a single private business. I don't want to see any business destroyed. But what I am asking the Congress is to give me definition as a local public official, and the people of my State, people of my city, as to how I am going to see that that business is preserved and at the same time see that the rights that the Court says that the 200,000 Negro citizens in Atlanta are entitled to, how are we going to give that to them?

I don't know which comes first, the 1 business or the 200,000 citizens. I would like to see all of them preserved.

But this is what I will need definition in, Senator. This is the reason that the Congress of the United States has got to come to the relief. This thing builds up day by day. People's tempers get worse. People's excuses and reasons in this situation, in the matter of race are becoming stronger, both white and Negro.

We need definition that would help alleviate this condition. I think the Congress of the United States has the ability to do it.

Senator PASTORE. Would the Senator yield so that I may make an observation, please?

Senator THURMOND. I would like to finish, but I will yield if you want to.

Senator PASTORE. Go ahead and finish.

Senator THURMOND. Mr. Mayor, you have a lot of small towns in Georgia?

Mayor ALLEN. Yes, sir.

Senator THURMOND. If this bill should result in the closing of the businesses in a number of the small towns in Georgia, do you feel that this would be a violation of their rights under the Constitution?

Mayor ALLEN. Senator, I can't answer that question. I look on Lee County and Leesburg. It has a 60-percent Negro population. I think a great number of the educated Negroes that moved out of Lee County--I expect this is a pretty low economic group that is left there--and you are asking me what happens in Lee County.

Senator. I don't know what happens in Lee County. It is an awesome problem that you have given us, that the courts have put on us, and we can't cope with it except by definition from the Congress, and that is what I am asking for.

Senator THURMOND. Thank you, Mr. Chairman. That is all, Mr. Mayor.

Senator PASTORE. I would like to make an observation for the members of the committee, and I am going to insist upon this and if it gets to a point of order I will take it up with the committee in executive session.

We are going to have, during the course of this hearing, many distinguished representatives of the various communities, maybe States of our country, come here to testify on this very controversial subject. There is going to be a divergence of points of view. I would hope, no matter how a witness feels, that he would be respected and dealt with fairly, even though he may be expressing an opinion with which the interrogator is not in consonance.

There are many witnesses who will testify here, who will express the views with which I do not agree, but I think we must consider this in the context of who these people are.

The man who is before us now is a mayor. He will be followed by a Governor. I hope that we won't begin to sling at these witnesses the type of "when do you stop beating your wife" sort of question because that, I think, is most unfair. It is only done for the purpose of embarrassment to the witness. It complicates and confuses the issue. I say to the members of this committee, let these people come here and express their points of view. If you disagree with it, there is plenty of time on the floor of the Senate to state your own opinion.

But I don't think that a witness ought to be embarrassed by the type of question that is put to him.

And any time I feel, as chairman, that that happens, I am going to interrupt the proceedings and raise a point of order. And if we have to go into executive meeting, we will go into executive meeting.

I would like to ask you one further question, sir, in order to clarify a point.

In any large restaurant in Atlanta, Ga., which caters to local citizens, if it is determined that substantially the commodities with which it deals are in interstate commerce, and for that reason falls within the purview of this law, would you agree with the application of this law that no discrimination should be allowed between the races? Do I make myself clear?

Mayor ALLEN. Yes, sir; you make yourself perfectly clear and I am thoroughly conscious of that provision of the law. Again, I would have to beg ignorance of law interpretation—

Senator PASTORE. I am not talking about the interpretation, Mr. Mayor. I am merely saying that the Attorney General of the United States has said that there are two formulas.

Mayor ALLEN. That is correct.

Senator PASTORE. Either, one, that deals with people who are traveling in interstate commerce; and, two, an establishment that deals with goods that are substantially in interstate commerce?

Mayor ALLEN. That is correct.

Senator PASTORE. So you may have a situation in Atlanta, Ga.—and I am clearing up this little bit of a vagueness that has occurred because of the questions—you may have a restaurant in Atlanta, Ga., that deals with a great number of people, and these people may be local people. They may not be transients. But the fact of

the matter is that that restaurant does deal in goods and commodities substantially that do move in interstate commerce. And the Attorney General explains that this law would then apply.

Mayor ALLEN. Right.

Senator PASTORE. Would you have any objection to that application?

Mayor ALLEN. I am primarily concerned with the person who goes in the restaurant, and the right of the restaurant to serve that person. Whether that is in the law or not is of no material consequence to the average layman who is trying to find a solution to the problem, sir.

Personally, as far as I am concerned, it could be struck out.

What I am saying is that I am concerned with an answer of how to handle the man who is coming in, and the decision that the restaurant owner has to make.

Senator PASTORE. As far as you are concerned, when it comes to public accommodations, you feel that there should be no discrimination at all?

Mayor ALLEN. I feel that there should be no discrimination under the demands that have been put on us by the Court. We have to go either one way of two ways. We can't keep on messing around with this issue forever, sir.

Senator PASTORE. Thank you, sir.

Mr. Hart?

Senator THURMOND. Mr. Chairman, may I make a comment on what the chairman said?

Senator PASTORE. Yes.

Senator THURMOND. I don't think I have asked any question here that has been out of order this morning. Was the chairman insinuating that I had?

Senator PASTORE. In this regard, if I want to be frank about it: "if it means that every restaurant has to close down"—now, that is a loaded question. It doesn't mean that. A hypothetical question should be directed to the facts at hand. And hypothetical questions, based upon speculations, are unfair to a witness because it puts him in a position of writing a book before he can clearly state a position.

Senator THURMOND. Mr. Chairman, I don't think I asked him the question "if all restaurants had to close down * * *."

Senator PASTORE. "If this means that every little restaurant in the State of Georgia has to close down;" that is an unfair question, because it doesn't mean that.

Senator THURMOND. Mr. Chairman, I asked him if this would close restaurants in small towns.

Senator PASTORE. Let's go back to the record.

Senator THURMOND. Would this invade the rights of those people? I insist that is a fair question. I think we have a right to examine the witnesses here in a rather liberal way to get their views on these matters, and I am sure the chairman would not try to apply gag rule to this committee.

Senator PASTORE. I am not applying any gag rule. I am trying to be fair here, if the Senator will understand it.

Senator THURMOND. Mr. Chairman, in the matter of understanding, I think I comprehend it, and it seems to me that you are casting an insinuation that my questions were improper, and I resent that, and I tell you I resent it, if that is what you meant.

Senator PASTORE. Let the Senator from South Carolina resent it—

Senator THURMOND. I expect to ask my questions. If you want to rule them out you can rule them out and we will call the committee together if you want to rule them out.

Senator PASTORE. I will rule them out.

Senator THURMOND. If you want to hear only one side of this hearing, now is the time for the people of America to know it. If we can't cross-examine these witnesses, and bring out the facts, and get their opinion as to how this bill is going to affect private business in America, then I say we have reached a dangerous state in this country.

Senator PASTORE. It isn't a question of cross-examination. We are not in a criminal trial here. These are respectable mayors.

Senator THURMOND. And I tried to treat them with respect. I have talked to them in a very quiet tone. I have asked them proper questions. I have not asked questions that would embarrass them. I have asked appropriate questions, and I resent your insinuation.

Senator PASTORE. Will the reporter please read the question back, to find out if it wasn't asked in the form "if this means that small business will have to be closed down."

Senator THURMOND. Suppose I did ask that question.

Senator PASTORE. You just said you didn't ask it.

Senator THURMOND. Would that be a proper question if I did?

Senator PASTORE. No, it wouldn't be.

Senator THURMOND. I say it would be a proper question.

Senator PASTORE. And I say it wouldn't be.

Senator THURMOND. I don't agree with you at all, and I am amazed at you taking this position. I am surprised that a chairman of a committee would take a position here that a Senator can't ask a question if it will close a business down. I contend it is a proper question if I did ask it. I don't think I asked it in the exact form you said. We can read it back. But if I had done so, I say that is a proper question.

Senator PASTORE. You can still maintain—

Senator THURMOND. Why can't we decide these things in executive session instead of arguing here before the public? I think you are not acting properly here as chairman in conducting this meeting in such a way.

Senator PASTORE. You can appeal to the committee if you want to if you don't think I am properly conducting this as chairman. But as long as I am chairman, I will see to it that these hearings will be conducted with decorum, that witnesses will not be unduly harassed, that they will not be embarrassed beyond the limits of fairness, and that no loaded questions will be submitted to these witnesses to catch tomorrow's morning's headline.

Senator THURMOND. There have been no embarrassing questions that I intend to ask. I intend to ask questions to elicit the facts, not to embarrass witnesses.

My questions, I think, were fair. I think that mayor himself will say the questions were fair. I was merely asking his opinion. I think I have a right to do that.

I think the people of the country have a right to know whether or not in the opinion of the mayor of Atlanta, places of business in his State would be closed down.

Senator PASTORE. I don't want the mayor of Atlanta to go back home and have everybody point a finger at him and say you are for closing down every little business because of the position you took.

Mr. THURMOND, I have been around for a long time. I know when a question is loaded.

Senator THURMOND. It is a matter of bringing out the truth and I expect to bring out the truth.

Senator PASTORE. Your truth is not my truth.

Senator THURMOND. If you or anybody wants to stop me from bringing out the facts, bringing out the truth, that is another question. But I don't believe the people of America will appreciate that position.

Senator PASTORE. Stop speaking for the people of America, because I don't think you do any more than I do.

Anything further from the Senator from South Carolina?

Senator THURMOND. I have completed my questions, Mr. Chairman, of this witness.

Senator PASTORE. Mayor, do you want to say something else before we—

Mayor ALLEN. I just want to submit my testimony, that is all.

Senator PASTORE. I wanted to assure you that you wouldn't be embarrassed when you are up here, before a committee of which I am chairman—you or anybody else.

Senator THURMOND. Mr. Chairman, I am surprised that you permit applauding in this room.

Senator PASTORE. I didn't do anything about that.

Senator THURMOND. You did nothing to stop it. It is against the rules.

Senator PASTORE. I can't stop it after it happens.

Senator THURMOND. Mr. Chairman, if you wish to give vent to the feelings here, and if you wish to have such a common quorum, that is a matter of view while you preside.

Senator PASTORE. Mr. Thurmond, I don't know who is in this room. It is the general public.

Senator THURMOND. I can tell you who is in here. It is a bunch of leftwingers who favor this bill, and who are taking your position, and you know it.

Senator PASTORE. Just a moment, please. I couldn't stop the first outburst, because I didn't know it was going to happen. But please, I caution the people who are privileged to be in this room, you are most welcome to be here. I don't think you are leftwingers. But I wish you would be a little more careful about any outbursts of emotion or applause.

It is not to be permitted. I hope that you will obey the rules.

Senator HART.

Senator HART. I think this would pass an examination in evidence as not a loaded question or suggestion. I think it would be useful for the record, Mr. Mayor, if you would describe your background.

Mayor ALLEN. Yes, sir, I would be glad to, Senator.

I was born, raised, educated all through grammar school, high school, and college in Atlanta. My family had been in business there since 1896. We have been active in business and civic affairs in the city and in the State during that period of time. I had held no political office before, except appointive offices, and I ran for mayor in 1961 and was elected.

Senator HART. What is the nature of your business?

Mayor ALLEN. We operate a small chain of commercial stationery and office equipment stores through the four Southern States of Alabama, Tennessee, and Georgia, and South Carolina.

Senator HART. You are engaged in interstate commerce?

Mayor ALLEN. Our business is engaged in interstate commerce; yes, sir.

Senator HART. You are familiar then with the variety of ways in which the Federal Government has "intruded" in the freedoms which are yours in business, are you not?

Mayor ALLEN. Yes, sir. I would like to qualify your question that they have "intruded." They have injected themselves for the benefit many times of the American citizen. I look on child labor laws, certain labor laws themselves, wage and hour acts. If those are "intrusions," most of them I think we generally accept as having been for the benefit of most of the people of the country. I am thoroughly aware of the magnitude of reports and restrictions that we are subjected to for the benefit of the public as a whole.

Senator HART. Mayor, your answer is a healthy one that I am delighted to have. I should add for the record that "intrusion" should be in quotation marks in my question.

Normally we don't underscore statements that witnesses have made, intending the record as a document to be read later. I think there is one paragraph here that voices a caution that this committee of Congress should hear very clearly. If you will permit me, I will read it. It is on page 12. You say that—

Congress is now confronted with a decision, a grave decision. Shall you pass a public accommodation bill that forces this issue? Or, shall you create another round of disputes over segregation by refusing to pass such legislation?

And then you tell us this:

Surely, the Congress realizes that after having failed to take any definite action on this subject in the last 10 years, to fail to pass this bill would amount to an endorsement of private business setting up an entirely new status of discrimination throughout the Nation. Cities like Atlanta might slip backward.

This is a new note given this committee. The committee now is being told that even in these areas where progress has been made, failure to pass this bill might turn the clock back. Isn't that really what you are telling us?

Mayor ALLEN. Senator, I would go a step further even than what I have said here and add that the fact that there is some doubt that this bill would pass has already created doubts in the minds of some people who have voluntarily taken these steps as to whether they should have taken them or not.

Senator HART. This is a very serious—

Mayor ALLEN. This is the problem, Senator, that we are always confronted with, and I don't know how to express this. I am inadequate in words to say that this is the inference that by virtue of the

fact that you don't pass a bill of this type that the right to set up a whole new segregated status, and we can start all over again, and maybe "progress" is not the word that Senator Thurmond or myself would use in this instance. Maybe it isn't progress that Atlanta has made. A lot of people in Atlanta don't think that this is progress. But the changes we have made could revert back in other directions.

Senator HART. The reason I think we are grateful that you tell us this is that often we are told that if we do enact this bill, voluntary progress will stop. We are now told this morning that unless we enact this bill, advances achieved through voluntary action may be lost.

Mayor ALLEN. I sincerely believe that.

Senator HART. I don't think we have had a more serious message in all the days of this hearing.

Mayor ALLEN. Thank you, sir.

Senator HART. Unless you have read the record of the last 10 days, you will think my last remark absurd. Was Atlanta acting under Communist inspiration when it made these steps to desegregate, as you described?

Mayor ALLEN. Senator, there is not any more communism in Atlanta than we have men on the moon.

Atlanta is just like most other American cities. It is an all-American city in which, I guess when some people don't get things exactly the way they want them, they jump up and yell that the other side is infiltrated with communism or something like this.

No, sir; there hasn't been any communism anywhere. We have been under pressures; we have been under demonstrations, and this is something that every public official lives in constant dread of, is seeing a public demonstration and seeing someone say it is communistically inspired.

No, this is not in any way true, sir. There is no communism in Atlanta. I don't think it is in many American cities. Maybe it is a line of thought.

I am not worried about that in my city, sir; in any way.

Senator HART. Mayor, thank you again.

I cannot even paraphrase the chairman's eloquent tribute. Certainly we have been visited by a man of quiet courage this morning, I am sure.

Mayor ALLEN. Thank you, sir.

Senator PASTORE. Senator Cannon.

Senator CANNON. Thank you, Mr. Chairman.

Mr. Mayor, you answered one of the questions by saying that you do have segregation ordinances still in existence in Atlanta. What do they relate to now?

Mayor ALLEN. On the books of Atlanta—and this is said without complete knowledge—and I expect on the books of most southern cities, are ordinances with regard to segregation that apply to almost every form of economic life and social life, sir. Barbershops, restaurants, public gatherings, socials. It is almost an unlimited—anything that could have been thought of by any elected official over the past hundred years to preserve the system which we lived under, and which I believe Senator Thurmond and I would be in complete agree-

ment sui was a convenient system as far as the white man was concerned, there has been an ordinance passed and put on the books, and they are all still there, I believe, in most southern cities.

Senator CANNON. In Atlanta have you repealed any of the ordinances?

Mayor ALLEN. No, sir; we have not repealed any of them. We have been advised by the city attorney that they are there and that they are probably unconstitutional, and we either ought to repeal them or ignore them, and that is pretty much the way we operate.

Senator CANNON. You haven't repealed any of them?

Mayor ALLEN. No, sir. I am not a lawyer. I don't know how you would say the school ordinance has been handled. It has obviously been made invalid, unconstitutional by the Supreme Court. Whether it has actually been taken off or not I don't know. I suspect it has been taken off the books of the State.

Senator CANNON. In your statement you have indicated that you made some progress but have a long way to go. In what areas do you still practice segregation in Atlanta?

Mayor ALLEN. Well, let's see. The hotels have been worked out on the basis of conventions only, approved delegates at conventions, and this is generally what is known as the Dallas plan that says that any approved convention that is approved by the convention bureau that has less than 5 percent Negro registration will be granted the right of the use of the hotels as long as they wear convention badges and can use the restaurant facilities. Generally those limited hotel owners that have accepted this agreement have also accepted prominent Negro visitors that come to town from time to time. But the use of the hotels for the average transient is still denied.

The use of the restaurants in a great number of cases is denied. So it has been, as I have tried to describe it, kind of a—well, we have done the best we could with it, with the conflicts of opinion, with the variances in thought. We have taken where we could make the most reasonable changes.

Senator CANNON. Are those the two main ones now that you practice segregation in, hotels and restaurants?

Mayor ALLEN. Those are the two major instances that I would say are not complete. Most of the things up and down Main Street have accepted the Negro customer a hundred percent.

Senator CANNON. For example in the professional—

Mayor ALLEN. No, that is in the area of professional men. I couldn't give a definite definition on that.

Senator CANNON: Do you have segregation there in the professions, say, dentists, doctors, lawyers?

Mayor ALLEN. That would only be by their own choice, which clients they accepted, sir. I don't think there is even an ordinance on that.

Senator CANNON. I am not asking about an ordinance. I am asking if you actually have segregation in those areas in Atlanta, if you know?

Mayor ALLEN. I couldn't answer your question specifically except to say this: I know of instances of many prominent white doctors that accept Negro clients. I don't know whether it is done out of the spirit of the client or out of charity, but it is done, sir.

Senator CANNON. You don't know whether any of the dentists or doctors or lawyers or beauty parlors and those types of businesses, have any signs up saying "White Only," or that sort of thing?

Mayor ALLEN. I don't think there are any signs up to that effect; no, sir.

Senator CANNON. You understand that if this bill is passed in its present form, and these people are furnishing services to the public generally—the traveling public I'm referring to now—that this would also apply?

Mayor ALLEN. I understand that.

Senator CANNON. And you favor that legislation that would apply under those circumstances?

Mayor ALLEN. It makes it very difficult, Senator, to separate it. I think under the circumstances of what the courts have already said about this, that we can't continue to deny the same rights to the Negro citizen that we have given to everyone else.

Senator CANNON. I agree with you on that. I'm trying to find out where you would draw the line because of your statement that you would exclude the small grocery store or the small restaurant that is not catering generally to the public.

Mayor ALLEN. It is my understanding it is excluded under this bill, sir, if it is not in interstate commerce.

Senator CANNON. The chairman has already pointed out in a question to you that every restaurant would be included in interstate commerce technically under the bill because if they use food and serve it in the restaurant, some of it has to travel in interstate commerce.

Mayor ALLEN. My feeling of the bill is that it doesn't say that just because there is one can of merchandise on the shelf that he is in interstate commerce. I think we have always been reasonable in interpretation of clauses of that type. I think under the stress of the time, and the need for time to make these changes, that certain people would have to, under this bill, would be excluded and it would be acceptable over a period of time.

Senator CANNON. You think the bill as it now stands draws the line that it would exclude the type of people that you would prefer to see excluded; is that it?

Mayor ALLEN. Yes; that would be excluded; I think it does.

Senator CANNON. And you do favor the exclusion of the small grocery store operator, the small restaurant operator?

Mayor ALLEN. I certainly favor the time element that I think is provided for in this bill.

Senator CANNON. The time element, you say?

Mayor ALLEN. I don't say that the bill gives a time element. But I'm saying that if he is a neighborhood operation, and primarily a neighborhood operation, and there is no issue there of a transient trade, the fact that he remains in his present status quo under the bill I think would be acceptable to the people of Atlanta; yes.

Senator CANNON. Do you think that the bill, as far as Atlanta is concerned, is covering the hotels and restaurants?

Mayor ALLEN. Yes.

Senator CANNON. So that you could go beyond your policy of conventions only in the hotels?

Mayor ALLEN. I think it is needed there and of course this doesn't come under my own supervision but in all the areas surrounding Atlanta, which is a metropolitan area, they have the same problems, and they haven't done anything about them yet. This makes it that much more difficult on Atlanta. And I think the bill would clarify this situation and would put it all on a little more reasonable basis.

Senator CANNON. Do you think you would be able, in a reasonable period of time, to work out the problem still existing in your hotels and bigger restaurants without legislation?

Mayor ALLEN. I think if Congress would define the issue and give a reasonable length of time for the cities to do something about it, and local business to work out a plan such as a time limitation that we imposed by pupil placement plans approved by the courts in many southern cities for education, that we could work it out before the deadline came.

Senator CANNON. What time frame are you thinking about?

Mayor ALLEN. Twelve to twenty-four months for your larger metropolitan areas, and a little longer time for the smaller cities in which the impact is more acute.

Senator CANNON. Would you favor writing some time limitation in the bill?

Mayor ALLEN. That is what I recommended, sir.

Senator CANNON. Thank you very much, Mr. Chairman.

Senator PASTORE. Along that line, Mr. Mayor, would you recommend something along the line that had been inserted in another bill? I know you may not be familiar with it, but I will read it to you. This is in S. 1731, under title IV:

Establishment of Community Relations Service: There is hereby established a Community Relations Service hereafter referred to as the Service which shall be headed by a Director who has been appointed by the President—

and then it goes on to specify his salary. And then the section 402:

It shall be the function of the Service to provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices—

and so on and so forth.

Do you think something along that line would be helpful, before an actual complaint is filed, so that a community that is willing to co-operate—the Attorney General has already stated in his testimony that in all these cases before they take any action they are going to sit down and talk with the community leaders in that particular locality to see if the matter can be straightened out—

Mayor ALLEN. That is correct.

Senator PASTORE. After all I think there is concern on the part of all parties concerned to do something about this problem. We have reached a point where we just can't sweep it under the rug. Something has to be done one way or another. I assume that there is going to be some rough going for a while.

Mayor ALLEN. There sure is.

Senator PASTORE. To me, as you have already stated, and I agree with you, it is inevitable. It has to be met. If we in the Congress of the United States who have now received this responsibility shirk it in any way, the repercussions might be serious.

MAYOR ALLEN. What you are referring to in that bill, and I have read, I think, that bill, sir, is what I am thinking in terms of, is an opportunity to voluntarily take this action. But if you are just going to ignore it, I mean the Supreme Court said: Here we are. And if we are just going to ignore it and hang in this pit of indecision that we have been in for 10 years—and believe me at a local level it is a pit of indecision because we have no definition on what to do, and we don't know what to do, and we need something. We need Federal direction in this instance.

SENATOR PASTORE. Senator Scott.

SENATOR SCOTT. Mayor, it is very encouraging to hear your testimony and to hear you make the point that once there is this commitment at the Federal level to do something, there just isn't any turning back. I congratulate you for that part of your statement, particularly where you say that—

to fail to pass this bill would amount to an endorsement of private business setting up an entirely new status of discrimination throughout the Nation.

I am familiar with Atlanta. To my observation Atlanta has already benefited very greatly by the wisdom and the leadership with which they have approached this tremendously difficult problem. So, I haven't any questions. I am certainly glad that you have put the weight of your office and the endorsement of the spirit of Atlanta behind this bill.

MAYOR ALLEN. Thank you, sir.

SENATOR SCOTT. I thank you very much.

MAYOR ALLEN. Thank you, sir.

SENATOR PASTORE. Senator Bartlett.

SENATOR BARTLETT. No questions. Thank you.

SENATOR PASTORE. Are there any further questions of this witness?

MR. MAYOR, we thank you.

MAYOR ALLEN. Thank you very much, Senator.

SENATOR PASTORE. We have the distinguished Governor of the State of South Carolina, His Excellency Donald Russell.

SENATOR THURMOND. Mr. Chairman, could I say a word in introducing Mr. Russell?

SENATOR PASTORE. Certainly.

SENATOR THURMOND. Mr. Chairman, our next witness is a man of great experience with a distinguished record.

He has served as an attorney with a large law practice. He has served as Assistant Secretary of State. He has served as president of the University of South Carolina, and he is now the distinguished Governor of the great State of South Carolina.

It gives me great pleasure at this time to present to the committee the Honorable Donald Russell, the Governor of South Carolina.

STATEMENT OF HON. DONALD RUSSELL, GOVERNOR OF THE STATE OF SOUTH CAROLINA

Governor RUSSELL. Mr. Chairman, I had not expected that introduction, but I am grateful for it.

As you have stated, my name is Donald Russell, and I am the Governor of South Carolina. I appear both personally and officially, and I do so in opposition to the proposed bill now under consideration by you.

The constitutional objections to this proposal have often been expressed and appear to my mind insurmountable. Such legislation must find its constitutional warrant in either the 14th amendment or the commerce clause of the Federal Constitution. Many years ago a Supreme Court, on which not one southerner sat and all of whose members had been appointed by Presidents deeply committed to the civil rights of minorities, stated in categorical terms that a bill similar to the present one represented an unconstitutional trespass of the Federal Government on States rights. In the famous *Civil Rights Cases*, 109 U.S. 3, the Court said:

This is not corrective legislation, it is primary and direct; it takes immediate and absolute possession of the subject of the right of admission to inns, public conveyances, and places of amusement. It supersedes and displaces State legislation on the same subject, or only allows it permissive force. It ignores such legislation, and assumes that the matter is one that belongs to the domain of national regulation. Whether it would not have been a more effective protection of the rights of citizens to have clothed Congress with plenary power over the whole subject, is not now the question. What we have to decide is, whether such plenary power has been conferred upon Congress by the 14th amendment; and in our judgment, it has not.

After stating that the Constitution "does not authorize Congress to create a code of municipal law for the regulation of private rights," but only provides "modes of redress against the operation of State laws, and the action of State officers, executive or judicial," the Court said:

If this legislation is appropriate for enforcing the prohibitions of the [14th] amendment, it is difficult to see where it is to stop. Why may not Congress with equal show of authority enact a code of laws for the enforcement and vindication of all rights of life, liberty, and property?

It may be urged that this decision has been outdated by the passage of time and progress of events. Many argue, I know, that the relevancy of constitutional decisions are of the moment, and that our Constitution, so carefully phrased for generations to come by the Founding Fathers, must be rewritten by each succeeding generation of the Supreme Court in the light of current conditions and in line with the current thinking of the then majority of that Court. I fervently hope that this view of the temporary quality of the Constitution shall never receive authoritative approval; but, at least so far as the basic decision in the *Civil Rights Cases* is concerned, current thinking by our Supreme Court seems to accord with the majority opinion in that case.

In 1948, the Court stated flatly:

Since the decision of this Court in the *Civil Rights Cases*, 109 U.S. 3 (1883), the principle has become firmly embedded in our constitutional law that the action inhibited by the first section of the 14th amendment is only such action as may fairly be said to be that of the States. (*Shelley v. Kraemer*, 1948, 334 U.S. 1.)

Again, as late as 1961, the Court put the matter sharply (*Burton v. Wilmington Parking Authority*, 1961, U.S.):

It is clear, as it always has been since the *Civil Rights Cases* * * *, that individual invasion of individual rights is not the subject matter of the [14th] amendment * * *, and that private conduct abridging individual rights does no violence to the Equal Protection Clause unless to some significant extent the State in any of its manifestations has been found to have become involved in it.

Nor can the fact that local and State governments issue licenses for the operation of private businesses within their jurisdiction, such as restaurants, barbershops, etc., largely for health or revenue purposes, represent "State action" sufficiently to bring the operation of such businesses within the coverage of the 14th amendment. In a letter to the New York Times in July 1963, Prof. Herbert Wechsler, Harlan Fiske Stone, Professor of Constitutional Law at Columbia University, though favoring civil rights legislation generally, answered effectively this argument with these words:

One need not be a lawyer to perceive that the fact that a State requires a lunchroom to obtain a license as a means of protecting the public health does does not make the lunchroom a State agency. Are all private corporations to be viewed as organs of the State because their corporate existence is conferred by their State charters? It puts the matter with excessive charity to say that this is a submission which is most unlikely to persuade the Supreme Court, and, what is more important, should not do so. In the entire history of the judicial interpretation of the 14th amendment, only Justice Douglas has accorded the position color of support in an opinion.

It seems unnecessary to press further this point, for apparently the authors of the present bill, recognizing the difficulties involved in predicating the constitutional basis for such legislation solely upon the 14th amendment, have sought to find asylum for this legislation within the commerce clause of the Constitution. While the congressional power to regulate interstate commerce is concededly broad, it does have reasonable limits; it must rest up—

a close and substantial relation to interstate commerce in order to justify the Federal intervention for its protection (*Santa Cruz Fruit Packing Co. v. N.L.R.B.*, 1938, 303 U.S. 453, 456).

It may not—

be pushed to such an extreme as to destroy the distinction, which the Commerce Clause itself establishes, between commerce "among the several States" and the internal concerns of a State. That distinction between what is national and what is local in the activities of commerce is vital to the maintenance of our Federal system (*N.L.R.B. v. Jones & Laughlin Steel Corp.*, 1937, 301 U.S. 1).

With specific reference to certain businesses covered by this bill, the language of the Court in *Williams v. Howard Johnson's Restaurant*, (C.C.A. Va. 1959) 268 F. (2d) 845, is apt. There Judge Soper, now deceased, said: (p. 848):

We think, however, that the cases cited are not applicable because we do not find that a restaurant is engaged in interstate commerce merely because in the course of its business of furnishing accommodations to the general public it serves persons who are traveling from State to State. As an instrument of local commerce, the restaurant is not subject to the constitutional and statutory provisions discussed above and, thus, is at liberty to deal with such persons as it may select.

If this proposed legislation should be sustained, there is no activity of our citizens which may not be subjected to direct control by Federal legislation, and no individual who may not be directly dealt with in relation to any and all of his affairs. Congress would no longer have to find its authority in any other part of the Constitution; the commerce clause would authorize anything it might choose to do. Such, we submit, is not our constitutional system.

As a leading editorial in a New York newspaper has recently summarized it:

On the national level, too, politicians talk more and more of applying the brute force of Government to compel people to conduct their private lives as the State directs, hardly pausing to think how this remedy would alter a free society. If some had their way, no man would be free to choose his neighbors, his children's associates to whom he will give lodging or to whom he will sell a hotdog.

Few political leaders any longer dare to try to distinguish between a just and worth cause—the assurance of equal political rights for all citizens in our society—and a headlong assault against society itself, its ways of living and its ways of ordering the laws by which it lives.

Not the least of the dangers in this is that, if unchecked, it will breed a reaction, as a crowd's excesses always do, and the injury will be not the least to the Negro's own cause. But make no mistake about it. It will be an injury to all if hysteria makes it impossible for a reasonable voice to be heard, if we let the reason of men be engulfed in the madness of a mob.

In addition to its constitutional infirmity, this bill offers no sound remedy for the delicate and complex problem of racial relations. Racial relations vary in their difficulty from community to community. They are influenced by population ratios, by the size of the community, by employment opportunities therein, and by the responsibility of local leadership on both sides. The cordial atmosphere essential to peaceful relations requires a mutual respect and understanding carefully nurtured and patiently developed among the races at this local level. Racial relations, especially as applied to services, retailing, employment, and accommodations, bring into sharp focus conflicting individual rights. Such rights must be recognized and dealt with on both sides with good will and calm sense, free from the coercion of hastily improvised legislation, massed demonstrations or hoods. Mutual respect and consideration in the local community and at the local level is the only foundation upon which wholesome progress in racial relations can be achieved. For this reason, neither Federal nor State legislation represents the answer.

Actually, legislative coercion can aggravate and make more difficult the whole problem. New York State has as stringent a code of so-called antidiscrimination legislation as can be envisaged. Has such legislation solved relations in New York? There are riots in the Bronx; there are demonstrations in Manhattan; there are sitdowns in the offices of both Governor Rockefeller and Mayor Wagner; there are strident indictments of the city of New York as a city of racial ghettos. Laws have not given New York racial peace.

In some instances, the very inflexibility of the laws may create the conditions they seek to relieve. Thus, an apartment owner in the State of New York, who has already admitted without question a Negro family as a tenant, has been summoned for hearing because he does not admit other Negro families. His answer is that his previous conduct demonstrates his good will, but to carry it further, he asserts, would mean the loss of his white tenants, thus creating, in fact, a "racial ghetto" of his apartment house. In short, the law defeats its own purpose.

Moreover, this law, if enacted, and applied as indicated by the testimony of one of its proponents, would give rise to well-nigh insuperable difficulties in enforcement and application. It has been suggested that a barbershop located contiguous to a State line would be covered if a certain percentage of its customers came from the adjoining State.

But, how was this to be determined? Must the barber keep a residential registry for all his customers? And, if he does not, who knows whether he is covered or not? Suppose, too, his competitor across the street placed a sign in his window that only residents of the State would be served, would the competitor be without the requirements of the law? And is it fair that a barbershop in Fort Mill, S.C., should be restricted, but one in Columbia, S.C., should not? This law would introduce endless confusion and controversy into an area of community life already too much burdened with confusion.

It is urged that, unless this legislation is enacted, our image abroad among the emerging nation will be obscured. Of course, this is not a new argument. It is marshaled in support of increased foreign aid and various disarmament proposals. I make bold to suggest that we are legislating for the security and tranquillity of the American people; and our guideline must be their interests. We must not permit our dedication to that interest to be confused by so-called images abroad. Indeed, I fear we have been too much concerned for too long with images, both domestic and foreign, and too little with principle and justice.

It will, no doubt, be stated that local change, voluntarily adopted, has been slow. It has been slow in some communities, but it has been rapid in others. And this is so, because in a country as large and as varied as ours, this problem is different in every community; but, whenever the matter has been handled locally on a basis of mutual understanding, there have been no riots, and the relations of the races have been improved.

In the city in which I now live, for instance, the lunch counters were desegregated many months ago. It was done voluntarily, without coercion. I may add, before there was any suggestion of the introduction of this bill. Similar incidents have taken place in many other cities in my State. But, they have taken place on the local level, by determination of local leaders.

I would not be misunderstood. I am not intimating that, if only given time, all the demands now being made will be met. With or without legislation, some may never be met; in fact, I question that some should be adopted. Nor will the tempo of change be the same everywhere. But the only kind of change which can promise real advance will be voluntary. And there has been change and there will be more if men of good will, acting voluntarily, are permitted to continue. But these leaders will not be helped by legal compulsion. Coercive legislation will breed resistance and perhaps violence and destroy that area of understanding and cooperation upon which alone we can base peaceful change.

This is thus a problem for the local community; it is a problem of human relations which must be worked out in the local community by the local citizens themselves.

It is not a problem for either State or Federal legislation.

Legal coercion will actually retard, not accelerate advances in creating that atmosphere of mutual respect and understanding so urgently needed today by both races.

I thank you.

Senator PASTORE. Governor, we thank you very, very much.

Senator Thurmond?

Senator THURMOND. Governor Russell, I wish to commend you upon an excellent statement.

I think the only question that I shall ask you is this: I have just had called to my attention a directive in the form of a letter from the Treasury Department, U.S. Coast Guard, concerning commanding officers and officers in charge taking steps to desegregate the community. Of course, this is a political question. For a commanding officer, a military man, to go out and inject himself into efforts to desegregate a community to my way of thinking is very unwise and, too, would take time that should be given to his military duties. I am just wondering if you care to comment on this.

Governor RUSSELL. I am not familiar to the letter to which you refer.

Senator THURMOND. I might read the first paragraph.

Governor RUSSELL. I will tell you now, Senator, I think that involves your duties up here. I do think that there would be quite a question in anyone's mind as to whether the military has either the time or whether it falls within its domain to try to handle matters of that character.

But that I leave to the military. I certainly do not think that they should attempt to use any coercion upon any local community. I think that would be unfortunate for relations there, and I would imagine that these commanding officers have enough to do to take care of their own operations at the base.

Senator THURMOND. For the record, I might state that this letter is dated the 4th of June 1963. The subject is "Availability of Facilities to Coast Guard Personnel." Paragraph 3(a), the first sentence, reads as follows:

Commanding officers and/or officers in charge are expected through command-community relations committees to make continuing efforts towards obtaining unsegregated facilities off base for all Coast Guard personnel.

I might say that this is in line with recommendations of the so-called Gissell committee, which some time ago recommended that commanding officers of forts, camps, and stations go out and undertake to exercise efforts to desegregate communities. I think it is getting on dangerous grounds, getting out of the military fields and into political fields and could cause repercussions.

Governor RUSSELL. I do not think the military should inject itself into political discussions.

Senator THURMOND. The rest of this paragraph reads as follows:

In these endeavors, the local commanding officer should insure that effective liaison is established with influential local community organizations such as, but not limited to, the chamber of commerce, the Rotary, the National Association for the Advancement of Colored People, the Lions, the Urban League, the Young Men's/Women's Christian Association, and the Kiwanis. Membership on the command-community relations committee should include local leaders from all ethnic groups.

I felt this should be called to the attention of the committee and should be made a part of the record as it pertains to this subject. I am pleased to receive your comment on it.

(The above-mentioned letter follows:)

TREASURY DEPARTMENT,
U. S. COAST GUARD,
Washington, D.C., June 4, 1963.

Personnel Instruction No. 20-63.

Subject: Availability of facilities to Coast Guard personnel.

1. *Purpose.*—To promulgate Coast Guard policy of equal treatment for all members of the Armed Forces without regard to race, color, religion, or national origin.

2. *Background.*—The policy of equal treatment for all members of the Armed Forces without regard to race, color, religion, or national origin has been firmly established within the Treasury Department and is consistent with the policy prescribed by the Department of Defense. In keeping with this policy, all facilities on Coast Guard installations are unsegregated.

3. *Action.*—

(a) Commanding officers and/or officers-in-charge are expected through command-community relations committees, to make continuing efforts towards obtaining unsegregated facilities off base for Coast Guard personnel. In these endeavors, the local commanding officer should insure that effective liaison is established with influential local community organizations such as, but not limited to, the chamber of commerce, the Rotary, the National Association for the Advancement of Colored People, the Lions, the Urban League, the Young Men's /Women's Christian Association, and the Kiwanis. Membership on the command-community relations committee should include local leaders from all ethnic groups.

(b) Off base facilities shall not be used for military functions or field exercises unless full access is available to all military personnel on a nondiscriminatory basis.

(c) As provided in the Uniform Code of Military Justice, members of the shore patrol are authorized and directed to take preventative or corrective measures, including apprehension if necessary, in the case of any member of the Armed Forces guilty of committing a breach of peace, disorderly conduct, or any other offense which reflects discredit upon the service. The shore patrol may not be employed on behalf of local authorities to support enforcement of racial segregation or other forms of racial discrimination.

(d) Legal actions by civil authorities against members of the Coast Guard growing out of the enforcement of racial segregation or other forms of racial discrimination will be carefully monitored by district commanders and commanding officers of Headquarters units. Within the framework of the legal assistance program, as set forth in Commandant's Instruction No. 21-61, legal assistance officers may be employed to assure that members of the Coast Guard are accorded due process of law. If it appears that the civil rights of Coast Guard personnel may be infringed upon or that an appearance in court or other legal action beyond the authority of the legal assistance officer is required, the matter shall be promptly reported to Commandant (CI) and a copy to Commandant (PS) for possible reference to the Department of Justice. In cases of this nature which are resolved locally, a case summary should be forwarded to Commandant (P). This summary should include a brief account of the circumstances leading to the incident, action taken by the appropriate command, and the final disposition.

4. *Effective date.*—Upon receipt.

G. A. KNUDSEN,
Chief, Office of Personnel

Senator THURMOND. We are pleased to have you with us, Governor. Those are all the questions that I have.

Thank you, Mr. Chairman.

Mr. Chairman, could I at this time introduce some people accompanying the Governor?

Senator PASTORE. We would be pleased and honored to know them.

Senator THURMOND. The attorney general of South Carolina, Mr. Daniel McLeod. Mr. McLeod, would you stand, please?

Senator PASTORE. You are most welcome, Mr. McLeod.

Senator THURMOND. I believe he has a brief statement, about a page and a half, which he would like to insert in the record following the Governor. Is that correct?

Mr. McLEOD. I can offer it in evidence. I offer it for the committee's consideration, if they would receive it.

Senator PASTORE. Without objection, it is so ordered.

Senator THURMOND. Assistant Attorney General Grady Patterson.

Senator PASTORE. Mr. Patterson, we are honored to have you here.

Senator THURMOND. The Honorable Joe Rogers, South Carolina, and vice chairman of the Gressette committee. Mr. Rogers.

Senator PASTORE. We are pleased to have you, sir. That is where I started in 1935, in the House.

Mr. ROGERS. Thank you, sir.

Senator THURMOND. The Honorable Donald Russell, Jr., legal assistant to the Governor of South Carolina, and a son of the Governor.

Senator PASTORE. We are very happy to have you here, sir.

Senator THURMOND. And I believe Dr. Robert Sumwalt, a former president of the University of South Carolina, was here.

And also, I might observe that Congressman Albert Watson, the member of the House from the Second Congressional District, with Columbia, our capital, as headquarters, is present.

Senator PASTORE. We are most honored to have you with us.

Senator THURMOND. Congressman Bryan Dorn was here.

Senator PASTORE. He was here and he has left.

Senator THURMOND. Thank you, Mr. Chairman.

Senator SCOTT. Mr. Chairman, I have read the Governor's statement with a great deal of interest. I appreciate his coming before the committee.

I have no questions.

Senator PASTORE. Thank you.

Senator LAUSCHE?

Senator LAUSCHE. I am looking at page 2 of your paper. There you make reference to a decision rendered in 1961 which is *Burton v. Wilmington Parking Authority*. Was there a constitutional issue involved in that case?

Governor RUSSELL. Yes, sir. I was only quoting it for that particular purpose.

Senator LAUSCHE. Was the commerce clause involved in it at all?

Governor RUSSELL. I am not certain, sir.

Senator LAUSCHE. With respect to the—

Governor RUSSELL. I was only interested in it from the phase of its reemphasizing that the *Civil Rights Case*, as I view it, remains the law of the land.

Senator LAUSCHE. Do you recall whether that was a unanimous decision or whether it was divided?

Governor RUSSELL. I do not think it was a unanimous opinion, sir, but I am not certain.

Senator LAUSCHE. I assume that on the basis of your quotation of what Prof. Herbert Wechler and Prof. Harlan Fiske Stone said, that Justice Douglas dissented with others.

Governor RUSSELL. He does dissent on this viewpoint. However, I have read the statement of the Attorney General before the Judiciary Committee, and I think that the Attorney General has indi-

cated some of the problems involved in this theory of State action arising merely out of the State licensing power for health and other purposes.

Senator LAUSCHE. You state:

As a leading editorial in a New York newspaper has recently summarized it--and then you set forth three paragraphs. What newspaper?

Governor RUSSELL. Wall Street Journal, sir. I think the editor has the very unusual name of Mr. Vermont Royster. That covers the territory of the name.

Senator LAUSCHE. It is your view that if the interpretation given to the words "substantially influenced" is sound, as presented by some witnesses to this committee, then no intrastate commerce is left?

Governor RUSSELL. No intrastate; correct, sir.

Senator LAUSCHE. Will you elaborate on your thoughts on that a bit, please, if you can?

Governor RUSSELL. I think if you are going to enunciate a rule that a barber shop, merely because some people from across the State line come in, are covered; or if you are going to take the view that a doctor's practice, we will say, comprises people who may come cross a State line, in interstate commerce, and therefore can be regulated, I don't know what the States will retain in the way of jurisdiction.

Senator LAUSCHE. I think that is all, Mr. Chairman.

Senator PASTORE. Thank you.

Senator Hart?

Senator HART. Governor, thank you very much for your statement.

I have no questions. I should just like to demur, if not dissent, from the suggestion that directing the Military Establishment in this country to insure equality of treatment of servicemen on and off base, wherever they may be assigned, is a political question and that they shouldn't have anything to do with that. I just don't buy that.

I support fully the Department of Defense effort, to insure that if a boy from Detroit is sent to Columbia, S.C., that he doesn't have to worry about eating or sleeping off base.

Senator PASTORE. Senator Cannon?

Senator CANNON. Thank you, Mr. Chairman.

Governor, if the theory advanced in support of this legislation is correct, do you interpret it that dentists, doctors, lawyers, beauty parlor operators, and that class of people, if they were holding out services to the general public and some of that general public were travelers traveling in interstate commerce, that they would be subject to the provisions of this law?

Governor RUSSELL. I think if the illustration of a barber, which was used in these hearings, is an accurate one, then I certainly think so, sir.

Senator CANNON. Would that also apply to all types of restaurants, whether it was a small restaurant or the biggest in the world, under the theory that the foodstuffs, a substantial amount of foodstuffs, do travel in interstate commerce?

Governor RUSSELL. I think there is a definite possibility of such a construction of the statute.

Senator CANNON. And do you think that under that theory that it would also apply to a number of what we refer to as tourist homes in many places where people rent out rooms in their private homes, and

they are situated on a through highway, an interstate highway? I know there are a number of those in the South—I have seen them—and a number of them in Washington. Do you think with that type—

Governor RUSSELL. Under the theory which was advanced here in connection with the testimony before the committee, I would think it would be.

Senator CANNON. In other words, if they hold out accommodations to the public—

Governor RUSSELL. Of course, I would assume that most of their customers would be traveling customers, interstate customers.

Senator CANNON. So that actually there is not much of an area that would be left strictly intrastate, in line with Senator Lausche's questions?

Governor RUSSELL. That is correct, sir.

Senator CANNON. Thank you very much.

Senator PASTORE. Thank you again, Governor.

Governor RUSSELL. Thank you.

(Statement of Daniel McLeod follows:)

STATEMENT OF DANIEL R. MCLEOD, ATTORNEY GENERAL OF SOUTH CAROLINA

I am Daniel R. McLeod, attorney general of South Carolina.

I am in complete agreement with the statement made by Governor Russell and I feel that it reflects the views of the vast majority of the people of South Carolina. I feel, moreover, that objection to this legislation is not restricted to sectional lines but come from a general recognition that it exceeds constitutional limits.

This legislation cannot be anchored within the 14th amendment. This was clearly established by the *Civil Rights Cases* of 1883 which recognized that the assertion by Congress of power to enact such legislation would constitute a precedent threatening the continued existence of our dual or Federal system of government, because with such power Congress could go further and override or supersede the criminal laws of the States generally, and enter upon the regulation of such private rights as the right to make wills, to marry, to inherit or otherwise acquire property, to do business, and many other private individual rights now possessed and enjoyed under the laws of each State of the Union by its residents.

If the power thus assumed were fully employed by Congress, the sovereignty of the States would have been totally usurped and destroyed, and the people of the United States stripped of their right of effective local self-government.

The Supreme Court of the United States has reaffirmed the validity of the *Civil Rights Cases* as late as 1901 by asserting that "individual invasion of individual rights is not the subject matter of the 14th amendment."

The Attorney General of the United States admitted before the Senate Judiciary Committee that to uphold the bill on 14th amendment grounds "would require overriding the *Civil Rights Cases* of 1883," but he expressed the hope that it might "be upheld by this Supreme Court."

It is equally clear that the Commerce Clause of the Constitution affords no place of refuge for this bill. It is only necessary to read the preamble of the proposed legislation to see that the connection between the individual conduct dealt with in the bill and interstate and foreign commerce is pretensive, tenuous, and completely illusory.

Irrespective of constitutional defects, this bill cannot attain its objectives. The businessman cannot compel customers to come to his place of business, and if they choose not to deal with him because of his compliance with a Federal law, he has no recourse but to go out of business.

Enforcement of this kind of legislation will not facilitate commerce: it will inevitably result in diminishing the number of restaurants, hotels, theaters, and other places of public accommodation.

There is no constitutional basis for this law. It strikes at private rights recognized as inviolate by past and modern day judges. It cannot subserve its own stated purposes but will be disruptive of commerce and will hinder, rather than help, harmonious race relations.

Senator THURMOND. Mr. Chairman, may I say a word about Mr. Pittman? He bears a reputation for being one of the ablest constitutional lawyers not only in the State of Georgia, but throughout the Nation.

It is a pleasure to have him before us at this time.

STATEMENT OF R. CARTER PITTMAN, ATTORNEY, DALTON, GA.

Mr. PITTMAN. Mr. Chairman and gentlemen of the committee, it is a pleasure to have the opportunity to come before this committee.

The first nine pages of my manuscript are historical in nature, and in the interest of time, will attempt to abbreviate it a little.

Senator PASTORE. Do you desire to put it in the record in its entirety?

Mr. PITTMAN. Yes.

Senator PASTORE. Without objection, it is so ordered.

Mr. PITTMAN. This kind invitation to appear before your committee was accepted in the hope that I may be helpful in arriving at a fair appraisal of the content, purpose and possible effects of Senate bill 1732. This bill involves, of course, that power conferred upon the Congress by article I, section 8, "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." That clause has an interesting history, some of which is relevant here. In the Constitutional Convention of 1787, this proposed power was referred to as the power to pass "navigation acts." Rivers were the highways of that day. Until 150 years ago, "to ship" invariably meant "to send by ship" and rivers were the bloodstream of commercial civilizations. The blocking of river navigation was a traditional means of oppressing those people who lived upstream or downstream or on the other side. When the Roman Empire freed the Danube from central Germany to the Black Sea, civilization moved with lengthened strides until in the times of the barbarians that freedom ceased for centuries.

One of the freedoms declared in Magna Carta was "freedom of rivers."

The Articles of Confederation, proposed in 1778 and adopted in 1781, required unanimous consent of the States for the adoption of any regulation of shipping. As is well known, most of the seaboard States, during and immediately after the Revolution, adopted commercial regulations which served the selfish interests of the people of those particular States and restrained the commerce of neighboring States. The frictions and animosities resulting from the adoption of partial and separate regulations by the various States threatened to disrupt the Union shortly after the Revolution. Those partial regulations resulted in the Mount Vernon Convention of 1785 at which delegates from Virginia met with delegates from Maryland in the home of George Washington. The navigation of the Potomac was the subject of that convention. An agreement was concluded there with respect to shipping on the Potomac, as to the boundaries between Virginia and Maryland and other matters. That agreement is in effect today and was judicially enforced not long ago.

In November 1785, a resolution was adopted in the Virginia House of Delegates proposing that for preventing animosities which cannot fail to arise among the several States from the interference of partial

and separate regulations; authority ought to be invested in the Continental Congress to forbid the individual States from imposing duties upon goods, wares, or merchandise imported by land or by water from any other State or from foreign countries. The third clause provided:

That no act of Congress, that may be authorized as hereby proposed, shall be entered into by less than two-thirds of the Confederate States, nor be in force longer than 13 years

After the adoption of this resolution, it was decided that the matter might be better handled in a general conference of all the States and on motion the Virginia House resolution was tabled in favor of another resolution adopted by the full Virginia General Assembly on January 21, 1786, appointing commissioners and inviting other States to appoint commissioners to meet in the fall of 1786 in Annapolis, Md. Only New York, New Jersey, Pennsylvania, Delaware, and Virginia were represented at the Annapolis convention. Consequently, it was decided that a general convention should be called to consider not only commercial regulations but for the purpose also of rendering the Constitution of the Federal Government adequate to the exigencies of the Union. The time for that convention was set in May 1787.

During the first 2 months of the convention substantially all references to power to regulate commerce were as to the power to pass "navigation act." As first proposed, it required a two-thirds majority of the Congress to enact such a law. There had been no controversy over conferring the power of Congress to regulate commerce and to tax imports until late in August. On August 21 the question as to whether or not the Congress should be authorized to tax exports arose. Some wanted to forbid any tax on exports and Madison suggested that the power be given to tax exports by a two-thirds majority, but his motion was voted down and it was agreed that no tax should be laid on exports.

As the proposed Constitution then stood, the importation of slaves could have been prevented or taxed. Slaves were merely commodities shipped in commerce. Luther Martin of Maryland then proposed that Congress be specifically authorized to forbid the importation of slaves or to impose a tax upon such importation. Delegate Rutledge of South Carolina disagreed, saying:

The true question at present is whether the Southern States shall or shall not be parties to the Union. If the Northern States consult their interest, they will not oppose the increase of slaves which will increase the commodities of which they will become the carriers.

Thereupon, delegate Elsworth of Connecticut said that there was no necessity to change the rule of the old confederation which "had not meddled with this point." Young Pinkney of South Carolina argued:

South Carolina can never receive the plan if it prohibits the slave trade. In every proposed extension of the powers of the Congress, that State has expressly and watchfully excepted that of meddling with the importation of Negroes.

It was then that George Mason, of Virginia, spoke with great feeling on the slave trade which he had been endeavoring to stop for the whole of his public life. He said:

This infernal traffic originated in the avarice of British Merchants. The British Government constantly checked the attempts of Virginia to put a stop to it. The present question concerns not the importing States alone but the

whole Union—Maryland and Virginia he said had already prohibited the importation of slaves expressly. North Carolina had done the same in substance. All this would be in vain if South Carolina and Georgia be at liberty to import. The Western people are already calling out for slaves for their new lands, and will fill that Country with slaves if they can be got through South Carolina and Georgia. Slavery discourages arts and manufactures. The poor despise labor when performed by slaves. They prevent the immigration of Whites, who really enrich and strengthen a Country. They produce the most pernicious effect on manners. Every master of slaves is born a petty tyrant. They bring the judgment of heaven on a Country. As nations cannot be rewarded or punished in the next world they must be in this. By an inevitable chain of causes and effects Providence punishes national sins by national calamities. He lamented that some of our Eastern brethren had from a lust of gain embarked in this nefarious traffic. As to the States being in possession of the Right to import, this was the case with many other rights, now to be properly given up. He held it essential in every point of view that the General Government should have power to prevent the increase of slavery.

Mr. Elsworth replied with sarcasm that—

In the sickly rice swamps foreign supplies (of slaves) are necessary, if we go no farther than is urged, we shall be unjust towards South Carolina and Georgia. Let us not intermeddle.

Both of the Pinkneys from South Carolina and Baldwin of Georgia defended the right to import slaves and threatened that their States would not join the Union if the Constitution authorized Congress to put a stop to the slave trade. Mr. King, of Massachusetts—

remarked on the exemption of slaves from duty whilst every other import was subjected to it, as an inequality that could not fail to strike the commercial sagacity of the Northern and Middle States.

Under threats from the South Carolina and Georgia delegates, Gouverneur Morris suggested that—

the whole subject be committed, including the clause relating to taxes on exports and to a navigation act. These things may form a bargain among the Northern and Southern States.

Delegate Sherman, of Connecticut, thought it was better for the Southern States to import slaves "than to part with them." Thereupon, Pinkney of South Carolina and Langdon of Connecticut moved to commit that section of the Constitution which required two-thirds of each House for the passage of a navigation act with that relating to the importation of slaves in order that the Northern and Southern States might make a bargain. The committee came out with a compromise under the terms of which navigation acts might be passed by a simple majority and the importation of slaves might not be interfered with for 20 years. A week later, on August 29, Mr. Pinkney from South Carolina decided he had "traded with the Gypsies" and moved to restore to the Constitution the following clause:

That no act of the Legislature for the purpose of regulating the commerce of the U.S. with foreign powers, or among the several states, shall be passed without the assent of two thirds of the members of each House.

The vote on Pinkney's motion to restore the two-thirds rule for the passage of a navigation act was lost by a vote of 6 to 4. Maryland, Virginia, North Carolina, and Georgia voted to restore it, while New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, and South Carolina voted in favor of keeping the majority rule. Thus it was that the two-thirds rule for the passage of navigation acts became a majority rule. The desire of two Southern States to

continue to import slaves and the desire of the New England States to continue to transport those slaves in their ships resulted in tragedy as foretold by George Mason.

After this agreement between the New England and the Southern States, the Convention moved to a rapid conclusion. The power to regulate commerce by a simple majority alarmed George Mason. He then for the first time proposed a Bill of Rights to assert the rights of men and thwart the heavy hand of arbitrary power. His proposal was ridiculed and rejected.

Immediately before adjournment Mason tried the subject again, proposing that since Congress should not be empowered to forbid the importation of slaves prior to 1808 that it not be empowered to pass a—law in the nature of a navigation act—before the year 1803 without the consent of two thirds of two branches of the Legislature.

Only Maryland, Virginia, and Georgia voted for that proposal. On the issues of slavery and commercial regulations by majority, Mason lost his standing in Philadelphia. He refused to sign a Constitution that sanctioned slavery and contained no Bill of Rights. Back in his room in the Indian Queen he wrote his "Objections to the Constitution." On May 26, 1788, Mason sent a copy of his "Objections" to Jefferson, telling about his refusal to sign:

Upon the most mature Consideration I was capable of, and from Motives of sincere Patriotism, I was under the Necessity of refusing my Signature, as one of the Virginia Delegates; and drew up some general objections; which I intended to offer, by Way of Protest; but was discouraged from doing so, by the precipitate, and intemperate, not to say indecent Manner, in which the Business was conducted, during the last week of the Convention, after the Patrons of this new plan found they had a decided Majority in their Favour; which was obtained by a Compromise between the Eastern, and the two Southern States, to permit the latter to continue the Importation of Slaves for twenty odd years; a more favourite Object with them than the Liberty and Happiness of the People.

When the proposed Constitution was before the Maryland ratifying convention one of the proposals of those who sought amendments was:

That no regulation of commerce, or navigation act, shall be made unless with the consent of two thirds of the Members of each branch of Congress.

The Virginia ratifying convention proposed the same amendment but failure attended the endeavor, and the power of one section of our country to impose its will over another, by a majority vote, purchased at the price of continued slavery, is invoked again today.

Neither in the Constitutional Convention nor in any of the ratifying conventions was a word said by any delegate, so far as we have been able to find, that would indicate that he believed that the power to regulate commerce might be perverted into a power to regulate the use of private property at rest within a State.

While Woodrow Wilson was president of Princeton, he delivered a series of lectures on constitutional government in the United States at Columbia in 1908. In one of his lectures Mr. Wilson discussed the true meaning of the commerce clause as contrasted with the meaning sought to be attributed to it at that day by those who wished to destroy all lines of demarcation between the fields of State and Federal legislation. It was his view that the commerce clause had to do only with the movement of merchandise from State to State,

and that it has no application to merchandise or people before movement starts or after movement ends. In that connection he said:

If the Federal power does not end with the regulation of the actual movements of trade, it ends nowhere, and the line between State and Federal jurisdiction is obliterated. But this is not universally seen or admitted. It is, therefore, one of the things upon which the conscience of the Nation must make test of itself, to see if it still retains that spirit of constitutional understanding which is the only ultimate prop and support of constitutional government.

One sleeping in a motel or eating in a restaurant, for example, is at rest—not moving. He is neither navigating or being navigated. To stretch the commerce clause far enough to make it applicable to one while sleeping or eating would reflect credit upon the ingenuity of a newly appointed Justice of the Supreme Court seeking to please his sponsor.

That which is happening today was happening, though in less degree, when Mr. Wilson lectured. In speaking of the congressional power, invoked by this bill, he said:

Its power is "to regulate commerce between the States" and the attempts now made during every session of Congress to carry the implications of that power beyond the utmost boundaries of reasonable and honest inference show that the only limits likely to be observed by politicians are those set by the good sense and conservative temper of the country.

In the same lecture, he cautioned against the destruction of divisions of power institutionalized in the Constitution, which in his times and in all ages have been necessary to preserve liberty. He did not speak of the "atomic age," or "jet age," of course, but he spoke of the fact that we had moved from ships to wagons, to buggies, to railroads and were citing such progress to excuse our impatience with the delays necessary in a government designed to preserve liberty. He said:

We are intensely "practical," moreover, and insist that every obstacle, whether of law or fact, be swept out of the way. It is not the right temper for constitutional understandings. Too "practical" a purpose may give us a government such as we never should have chosen had we made the choice more thoughtfully and deliberately. We cannot afford to belle our reputation for political sagacity and self-possession by any such hasty processes as those into which such a temper of more impatience seem likely to hurry us.

No institutions of liberty have ever been built in haste and none have ever been preserved except by barriers, barricades, and obstacles set up in the paths of those who wish to be "practical" and to move fast. The provisions of our Constitution and Bill of Rights were intended to constitute barriers to the onrush of power. The principal purpose of a constitution is to delay the concentration and the exertion of the power of government and thereby protect the lives and liberties and the properties of citizens.

The Constitution went into effect in 1788, but the Bill of Rights was not officially adopted by the necessary 10 states until December 15, 1791. The first Senate of the United States met behind closed doors and permitted no minutes to be kept of its proceedings. But William Maclay, a Senator from Pennsylvania, kept a secret journal. He recorded on pages 202 and 203, 2 years before the adoption of the Bill of Rights, that some of the New England Senators involved in the shameful bargain which gave them added strength, were gloating over the fact that the States and the people were at last in the clutches of Federal power.

Senator King, one who was most instrumental in that diabolical trade to continue slavery, was quoted as saying—and he was from Massachusetts—

The opponents of the Constitution would not see the ground on which to attack it. The business is now complete. We need not care for opposition. The Constitution of the United States implied everything. It was a most admirable system. * * * The claim of any of the States to any of the powers exercised by the General Government * * * will be treated with contempt. The Supreme Court is with the General Government to decide * * * In everything * * * for the States have neglected to secure any umpire or mode of decision in case of difference between them. Nor is there any point in the Constitution for them to rally under. They may give an opinion, but the opinion of the General Government must prevail, etc. This open point, thus unguarded, has rendered the General Government completely uncontrollable * * *.

Senator King reckoned before people were through clamoring for a Bill of Rights. The people knew not to trust a government except it be in shackles and chains. Montesquieu had told them that the bigger a government the more dangerous to liberty it becomes.

A few months later, the people of the United States attempted to fill in the "open point" with the Bill of Rights.

The Federal Bill of Rights was written originally by George Mason to satisfy the demands of the people for protection against such measures as that proposed in Senate bill 1732. A little history should make that reasonably clear. For example, the third amendment in the Bill of Rights reads:

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

The fifth amendment reads in part as follows:

No person shall * * * be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

If no soldier may in time of peace, be quartered in "any house" without the consent of the owner, is it conceivable that one who is not a soldier may be quartered in "any house" without the consent of the owner? If the private property may not be taken for public use without due process of law and without just compensation, is it possible that it may be taken by the Government for a private use without due process of law and without just compensation?

The third amendment was fashioned from similar provisions in States bills of rights and from proposals adopted in the several ratifying conventions. It goes back to the English Bill of Rights and from there back through the petition of right to Magna Carta.

One of the characteristics common to all despots throughout the ages is that they have freely subjected the property of ordinary citizens to their own uses and the uses of their favorites without the consent of the owners, without due process and without payment therefor.

In A.D. 1215 King John was forced to confirm and to promise in the 46th paragraph of Magna Carta that from that day forward:

No freeman shall be taken, or imprisoned or disseised * * *; nor will we pass upon him, or of his peers or unless by the law of the land.

In the 60th paragraph King John promised the peers that:

If anyone hath been dispossessed or deprived by us without the legal judgment of his peers, of his lands, castles, liberties or rights, we will forthwith restore them to him; * * *.

The quartering or billeting of troops or others without the consent of an owner in disseising, dispossessing, and depriving. The home of every Anglo-Saxon is his "castle." His castle is entitled to equal protection of the law whether it contains 3, 300, or 3,000 rooms.

During the 400 years between Magna Carta and the petition of right it became necessary for Magna Carta to be reaffirmed on an average of once every 10 years, not by reason of the obscurity of the language used, but by reason of the lust of rules for arbitrary power.

Tyranny knows nothing new. It merely revives old impositions under new names and under different circumstances. The Stuart Kings who came to the throne of England around 1600 were extremely well educated in the practices of tyranny. They had been "poor little rich boys" learning everything from tutors and nothing from experience.

Lacking reliable information they surrounded themselves with speculative advisers of the tutor type as do those, reared in like manner, today, who surrounded themselves with a host of college professors to tell them how to rule over us. Their advisers were well versed in the history of oppression under unrestrained power. The same causes usually produce the same effects.

Senator PASTORE. Even if I don't agree with it, sir, it is beautifully said.

Mr. PITTMAN. Thank you, sir.

Senator SCOTT. It certainly flows like a river.

Mr. PITTMAN. The petition of right, originally drawn by Sir Edward Coke, and finally granted by the King on June 7, 1628, contains the same provision as Magna Carta, above quoted, and recites statutes enacted by the Parliament on later occasions which provided in part:

No man, of what estate or condition that he be should be put out of his lands or tenements, nor taken, nor imprisoned, nor disherited, nor put to death, without being brought to answer by due process of law.

After reciting violations of the ancient laws the petition of right continues:

And whereas of late, great companies of souldriers and marriners have been dispersed into divers Counties of the Realme, and the inhabitants against their wills have been compelled to receive them into their houses, and there to suffer them to sojorne, against the lawes and customes of this realme, and to the great grievance and vexation of the People.

After the petition of right was granted the Stuart Kings continued to violate the personal and property rights of the people of England until at last James II was dethroned and William and Mary were brought to the throne. They were brought to the throne under an act of Parliament, which is known as the English Bill of Rights. That bill of rights indicted King James II for arbitrarily violating the rights of English citizens. The fifth clause of the indictment charges that King James—

endeavored to subvert and extirpate . . . the laws and liberties of this kingdom . . . by raising and keeping a standing army within this kingdom in time of peace, without consent of parliament, and quartering soldiers contrary to law.

The proposed bill now under consideration by this committee would deprive the owners of property of an essential characteristic of ownership in that they would be forced to permit the use of their properties by others without their consent. Insult is then added to injury by forcing them to provide services to their unwanted guests under threat of ruin by a Federal judge sitting without accountability except to other judges, carefully screened by the Attorney General and promoted by the President to ride herd over them.

English kings set up star chambers and high commission courts so that English subjects who refused to permit their property to be taken or subjected to unwonted uses might not have the benefit of trial by jury. Section 5 of this proposed bill has been more astutely drawn and will be more oppressive in its application than any decree setting up those prerogative courts by tyrannical English kings.

Section 5(a) of this bill authorizes:

A civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order * * * (1) by the person aggrieved, or (2) by the Attorney General for or in the name of the United States if he certifies that he has received a written complaint from the person aggrieved * * *

Furthermore, section 5(a) even requires the property owner to pay the attorney fees of the "person aggrieved" who drags him before the "star chamber" if he loses his case.

What man would fail to lose with the "person aggrieved" assisted or represented by the Attorney General, before a judge whose chances of promotion depended upon the smiles and influence of the Attorney General? If anything like that was ever conceived in the fevered brain of any tyrant that has ever stalked across the pages of history, it has escaped my attention.

Under section 5 (d) and (e) the Attorney General is given a plentitude of power to regiment both property and its owners throughout America. The injunction provision bypasses juries and renders the liberties and properties of the people naked sports of raw power. The people of England were shoring up when they forced King John to grant to them the 46th clause of Magna Carta that I read to you. That is what they were complaining about in the Petition of Right of 1628. They charged that they had been disseised of their property without a jury trial, and that is exactly what this bill does.

Thus, we see that section 3(a) of S. 1732 is not new. It is only new in American constitutional history. It is the old "billet" scheme in a new dress. When soldiers were billeted in the homes, castles, and lodging houses of England, the owners were sometimes paid by the King, but billeting, without affording to the owners of the castles hearings before juries, was the disseising and the taking of property without due process of law. It made no difference whether those thus billeted were soldiers or citizens, and whether the owners were paid or not.

The billeting of British troops took place in America and elsewhere before the American Revolution, in "time of peace." The purpose of the third amendment was to protect property and persons against billeting. It mentioned soldiers because, historically, billeting had always been perpetrated in behalf of those armed by rulers under the pretenses of affording protection. The novelty of the "bil-

letting clause" in this bill is that it extends the privilege of billeting to civilians in peace as well as war and depreciates the value of property by a taking for which no one adequately pays.

One of the most astutely drawn clauses in the billeting provisions of this bill is the provision that exempts "bona fide private clubs or other establishments not open to the public." In connection with attempts to integrate schools throughout the South, one fact is becoming increasingly apparent. Advocates of race mixing, almost without exception, have been those who are insulated from its incidences and its consequences. Wealth and political power are great insulators. Race mixing in daily life is only for the poor. It is not for the hypocritical plutocrat. A show of race mixing is for the rich and powerful, but never the real thing. The exemption in this bill is a carefully devised rathole for those who spend their time preaching integration for the poor whites, while philosophizing about it over cocktails within the segregated shelters of exempt clubs. It is improbable that any man who had anything to do with the preparation of this bill or who sponsors it now either lives in a 10-percent integrated neighborhood or sends his children to a school where Negro children constitute as much as 10 percent of the enrollment.

Those Federal judges who act the part of ill tempered martinets in racial matters do not send their children or their grandchildren to integrated schools. The mayors who lead the rabble in marches down our city streets do not live in integrated neighborhoods and do not send or permit their children or grandchildren to attend integrated schools.

It is an ironic commentary on the nature of man that those who lead this crusade to require the common white people of America to mix their children and themselves with the children and members of another race are themselves, almost without exception, insulated from the incidences and consequences of integration.

(At this point there was expunged from the record, by direction of Senator Pastore, a part of the record.)

Senator THURMOND. Mr. Chairman, I want to say this: I don't think that it is necessarily an unfair statement. I think if the mayor were here, he would make it, too. If Mr. Pittman wants to withdraw it, that is a matter for him.

Mr. PITTMAN. Among the many timeless expressions of Patrick Henry, when speaking in behalf of a bill of rights in the Virginia Ratifying Convention, these two come to mind: "I dread the depravity of man" and "Virtue will slumber."

But, after all, what does it signify that men should have a written constitution, containing unequivocal provisions and limitations? The legislative lion will not be entangled in the meshes of a logical net. The legislature will always make the power which it wishes to exercise, unless it be so organized as to contain within itself the sufficient check. Attempts to restrain it from outrage, by other means, will only render it more outrageous. The idea of binding legislators by oath is puerile. Having sworn to exercise the powers granted, according to their true intent and meaning, they will, when they feel a desire to go further, avoid the same, if not the guilt, of perjury, by swearing the true intent and meaning to be, according to their comprehension, that which suits their purpose.

Liberty always loses in effectiveness that which the government gains in power. Algernon Sidney said:

Man is of an aspiring nature, and apt to put too high a value upon himself; they who are raised above their brethren, though but a little, desire to go further; and * * * they think themselves wronged and degraded, when they are not suffered to do what they please.

Patrick Henry warned us in the Virginia Convention:

Human nature will never part from power. Look for an example of a voluntary relinquishment of power, from one end of the globe to the other — you will find none.

We, like him, should be unwilling to "depend on so slender a protection as the possibility of being represented by virtuous men", because, as he said, "Virtue will slumber."

The desire to be practical in an atomic or jet age undermines the institutions of liberty. Those who seek power and those who exercise it never concede that power is unsafe in their hands. So little weight does the human mind allow to the most conclusive arguments, when directed against the existence of power in themselves, that one feels a deep sense of futility in arguing the want of constitutional power to pass a bill signed by a respectable number of Senators, to whom this argument is directed.

Not in conclusion, because I have a few statements after this manuscript, but I would like once more to invoke history as an aid in placing this bill and the philosophy behind it in proper perspective. Aristotle is one against whom even the most rabid leftwingers would hesitate to hurl the epithet "racist."

As you know, Aristotle was the classic political historian of ancient Greece whose writings are ever old and ever new. Writing 300 years before Christ, in his "Politics," on the causes of revolutions that destroy free governments, he said this about race differences:

Another cause of revolution is difference of races which do not at once acquire a common spirit; for a state is not the growth of a day, any more than it grows out of a multitude brought together by accident. Hence the reception of strangers in colonies, either at the time of their foundation or afterwards, has generally produced revolution; *Politics*, book 5, chapter 3.

That is what George Mason said in his speech that I didn't read.

After describing many general causes which tend to destroy democracies, he then speaks of "the last form of democracy, * * * in which all share alike," which, he said, "will not last long." He noted that demagogues who bring about the destruction of free governments make it a habit to advocate universal suffrage. He said, and I quote from Aristotle, that they—

* * * have been in the habit of including as many as they can, (meaning universal suffrage) and making citizens not only of those who are legitimate, but even of the illegitimate, and of those who have only one parent a citizen, whether father or mother; for nothing of this sort comes amiss to such a democracy. This is the way in which demagogues proceed.

The welfare program of this Government which encourages Negroes to give birth to illegitimate children—and they encourage whites, too—and the pending measures to increase voting by the ignorant drags of society is "the way in which demagogues proceed" now as they did 3,000 years ago.

Aristotle moves a little closer to the philosophy behind the bill on your table and shows what one must do to bring about the fall of republics. I would hesitate to say this if Aristotle didn't have such a wonderful reputation:

* * * brotherhoods should be established; the private rites of families should be restricted and converted into public ones; in short, every contrivance should be adopted which will mingle the citizens with one another and get rid of old connections. Again, the measures which are taken by tyrants appear all of them to be democratic * * *. Such a government will have many supporters, for most persons would rather live in a disorderly than in a sober manner.

Continuing, Aristotle said:

The demagogues of our own day often get property confiscated in the law courts in order to please the people. But those who have the welfare of the state at heart should counteract them, and make a law that the property of the condemned should not be public and go into the treasury but be sacred.

The bill on your table is more progressive than those devised by ancient demagogues because here you would first confiscate and then damn him who objects.

In book 7, chapter 10, Aristotle comments upon the fact that despotism knows nothing new. He says:

It is true indeed that these and many other things have been invented several times over in the course of ages, or rather times without number.

According to newspaper reports, and that is my only authority, this committee has been urged by a member of the President's Cabinet and with his sanction to report this bill favorably in order to please or to answer the propaganda of Khrushchev and his followers. That strange argument has been "invented several times over in the course of ages," as Aristotle said. One of the inventions that comes to mind occurred in the 1570's.

Charles IX of France and his mother, Catherine de Medici, were good Catholics who never wearied of pleasing the Pope. To please the Pope, Charles IX signed a decree, which became the law of the land, under which all Protestants in France were to be murdered on the eve of St. Bartholomew. Fifty thousand French Protestants were executed immediately under that decree.

Pope Gregory XIII was so pleased that he ordered bonfires to be lit and a medal be struck off in commemoration of that great contribution to the cause of Catholicism and the glory of God. Even so, out in the Provinces of France many Protestants still lived. Since the law of the land required their execution, messengers were dispatched to find out what had gone amiss and to insure immediate enforcement. Several of the governors and other officers in the Provinces were reluctant to obey the law of the land. Viscount Ortez, commandant at Bayonne, wrote back to Charles IX:

Sire, I have found in Bayonne honest citizens and brave soldiers only, but not one executioner. Therefore they and myself supplicate your majesty to use our arms and lives in feasible things.

Sires, you will find in the provinces of this Nation, the little town, many honest citizens and brave soldiers, but few who will become executioners in order to please Kennedy, Khrushchev, or Castro.

Therefore they and myself supplicate your majesty to use our arms and lives in feasible things.

Senator PASTORE. Are you inferring that this legislation would please Khrushchev and Castro?

Mr. PITTMAN. Yes, sir.

Senator PASTORE. Is that your position here today?

Mr. PITTMAN. I cover that. I have an additional statement.

Senator PASTORE. I'm asking you now. That is your last sentence?

Mr. PITTMAN. I will cover the racial agitation by Congress in the next statement, and that will answer you.

Senator PASTORE. I am asking you this question now.

Mr. PITTMAN. I will read it to you. May I?

Senator PASTORE. Yes.

Mr. PITTMAN. Having completed my formal statement, I would like to revert briefly to contemporary history. News media reported recently that the President stated at a press conference and elsewhere that he has no intimation that the racial agitation now going on throughout the Nation is Communist inspired. It is unfortunate that the President should not be fully briefed on a fact of such significance. I brought with me yesterday's Atlanta Constitution which tells enough on that subject to convince many people. Of all the newspapers in America, the Constitution would be the one most unlikely to furnish false evidence of the communistic nature of the integration movement.

On the first page "One-Time Communist Organizer Heads Reverend King's Office in New York." And there is a story by Bill Shipp, Constitution news editor, which reveals King's connection, and the man who is running the show up there is a Communist.

Then another story on page 14, and I brought that too, headlined "Cook Probes Literature on Negro Republic in Dixie." The Communist agitation for this segregated Negro republic in the South and an integrated society elsewhere in America is fully documented in the case of *Herndon v. Lowry*, 301 U.S. 242 (1939). That was a celebrated case in which Whitney North Seymour, Benjamin Davis, Jr., and Judge Tuttle's old law firm, Sutherland, Tuttle & Brennan, among many others, represented the self-confessed Communist Herndon, who testified that his only income was \$10 a week.

The Supreme Court, of course, on final appeal, found Herndon was exercising the right of speech under the first amendment.

Senator THURMOND. Keep your voice up, if you can, so we can hear you.

Mr. PITTMAN. I tender these stories as an exhibit to my testimony for the information that they may convey to those who don't know but who may be willing to learn.

About a year and a half ago I delivered a lecture in Tulsa, Okla., entitled "Communist Contribution to Equalitarian Dogma and Race-Mixing Turmoil." After he had read a draft of that lecture, before delivery, which he had borrowed from Harold Martin of the Atlanta Constitution, and who was at the meeting to do a smear story for the Saturday Evening Post, David Buksbaum, representative of the Columbia Broadcasting System, warned me substantially in these words:

Of course, my people are on the other side, but this is the most devastating thing I have ever read. Your documentation is such that you cannot be answered, but you can be smeared.

Thereafter Harold Martin and David Buksbaum, without disputing or refuting the verity of one single statement made by me, attempted to smear me; Martin's attempt was in a feature article appearing in the

Saturday Evening Post and Buksbaum's attempt was in a nationally syndicated Columbia Broadcasting System television program.

I have been honored by the attempted smears of many leftwing organizations. The latest is in a book entitled "The Far Right." I have learned that the quickest way to become notorious in America is to tell the truth about communistic influences in America. I tender a copy of that lecture as an exhibit to my testimony. It is now out of print.

Unfortunately the FBI has been reduced to a minor status as an adjunct of the Attorney General's Office and the information in their files about the connection of communism with race agitation is not permitted to reach the Congress or the American people unless it suits the Attorney General. A Congress that doesn't have its own permanent investigation bureau with power to go after information and get it makes itself look childish.

The basis for the most violent attacks as a result of the evidence I have presented of "Communist Contribution to Equalitarian Dogma and Race-Mixing Turmoil" is the thesis—documented in my lecture to the effect that there exist such racial differences between Caucasians and Negroes as to make the segregation or classification of races a reasonable classification within the meaning of the 14th amendment. My lecture disclosed vast differences between the educability of Negro schoolchildren and white schoolchildren, and that is what was ridiculed most.

Senator PASTORE. May I interrupt you for a question?

Mr. PITTMAN. Yes, sir.

Senator PASTORE. Do I understand you correctly then that your philosophy implies that Negroes are not first-class citizens?

Mr. PITTMAN. By no means. No, sir.

Senator PASTORE. What differentiation do you make?

Mr. PITTMAN. Which is superior, a Hereford cow or a Holstein?

Senator PASTORE. I don't know.

Mr. PITTMAN. You don't know. You have to get more information. They are different. What I am saying is that there is a difference that justifies classification.

Senator PASTORE. Looking at your statement on page 25, you say here:

• • • and the pending measures to increase voting by the ignorant dregs of society is the way in which demagogues proceed.

Whom do you mean by "ignorant dregs"?

Mr. PITTMAN. White and black who are so ignorant that they vote in blocs. The purchasable vote in America is what I am talking about. I will read here:

My lecture disclosed vast differences between the educability of Negro schoolchildren and white schoolchildren, making it necessary that they be separately educated if they are to be efficiently educated. In the recent *Savannah School* case, counsel for the NAACP stipulated in open court that objective tests showed that Negro children do not learn as well and have to learn slower than white children.

On page 134 of the transcript in that case, which I will leave with this committee, and which I tender, the following statement by Mrs. Motley leading counsel for the NAACP, printed on the face here, she made this statement:

"I would like to say this, in addition, Your Honor: If this man is going to testify that Negroes, generally, on achievement tests, do not perform as well as whites, the same as the previous witness, we will stipulate that. He doesn't have to testify to it. We will agree to that."

Senator PASTORE. Let's assume that you have a brilliant Negro. Do you think he ought to be integrated?

Mr. PITTMAN. What is that?

Senator PASTORE. If you have a brilliant Negro, should he be integrated?

Mr. PITTMAN. The evidence in that case shows that it harms.

Senator PASTORE. That it what?

Mr. PITTMAN. Shows that it harms, in the lower school levels, it harms the white children and the Negro children.

Senator PASTORE. Is your answer that he should not be integrated?

Mr. PITTMAN. On a college level?

Senator PASTORE. On any level. Take a brilliant Negro. You said that it is typical of the race to be slow.

Mr. PITTMAN. No, I didn't say that. Mrs. Motley said that. Don't quote me there. Mrs. Motley said it, and I use her as an authority.

Senator PASTORE. Do you agree with that authority?

Mr. PITTMAN. I agree with Mrs. Motley.

Senator PASTORE. All right, then it is your view, then, that they are slower?

Mr. PITTMAN. Oh, certainly.

Senator PASTORE. I am asking you this question. Let's assume you have a brilliant Negro. Should he be treated the same as a brilliant Caucasian? Should he be integrated?

Mr. PITTMAN. Let me say this—

Senator PASTORE. You can answer that question.

Mr. PITTMAN. Yes, I can answer it, but not yes or no.

Senator PASTORE. Then give the explanation.

Mr. PITTMAN. My answer is simply this: If you take a brilliant Negro, who is at the top of the Negroes and Negro schools, and you transplant him in a white school, the evidence in this record will show that he is no longer at the top but he drops way down. And when he does, it does to him psychological damage. It is in this record here by experts.

Senator PASTORE. Let me ask you this other question, and this will be the last one I will ask you, sir: You don't believe in integration at all, do you?

Mr. PITTMAN. Integration?

Senator PASTORE. Of the races.

Mr. PITTMAN. I don't preach what I don't practice, and very few people who say they believe in it practice it.

Senator PASTORE. Why won't you answer my question?

Mr. PITTMAN. Why, of course I don't believe in it.

Senator PASTORE. That is all I wanted you to say.

Mr. PITTMAN. Now, let me—Mrs. Motley is probably a secondary authority on this question that I have just brought up.

Marxism equalitarians patronize two who have achieved sainthood in their order. One of those, a portion of whose work was quoted extensively by counsel for the NAACP in the *Brown* decision, was Otto Klineberg, social psychologist of Columbia University. I desire to read into this record an excerpt from his book entitled "Race Differences" published before he became an unreasoning equalitarian:

In the field of racial psychology no other problem has attracted so much attention as the question of the inherent intellectual superiority of certain races over others.

The number of studies in this field has multiplied rapidly, especially under the impetus of the testing undertaken during the World War, and the relevant bibliography is extensive. The largest proportion of these investigations has been made in America, and the results have shown that racial and national groups differ markedly from one another.

Negroes in general appear to do poorly.

Now, that is one of the authorities for the *Brown* decision.

Pintner estimates that in the various studies of Negro children by means of the Binet, the IQ ranges from 83 to 99, with an average around 90. With group tests Negroes rank still lower, with a range in IQ from 68 to 92, and an average of only 76. Negro recruits during the war were definitely inferior; their average mental age was calculated to be 10.4 years, as compared with 13.1 years for the white draftee.

American Indians and the Mexicans he rates on down the line.

Among European immigrant groups, Italians have in general made a poor showing.

I won't read all of that.

Senator PASTORE. Now, wait a minute before you go any further, can you document what you have just said?

Mr. PITTMAN. I am quoting from Otto Klineberg's book entitled "Race Differences."

Senator PASTORE. And do you subscribe to that?

Mr. PITTMAN. Not all of it. I think—he, by the way, he is the patron saint of the equalitarians now. Don't disparage him.

Senator PASTORE. I don't care whose saint he is. I am asking you if you believe in that philosophy?

Mr. PITTMAN. He is now at Columbia. You can call him before you and ask him if he says this.

Senator SCOTT. The Devil has his saints, too.

Senator PASTORE. Let me ask you another question: Do you know Ralph Bunche, the assistant to the Secretary General of the U.N.?

Mr. PITTMAN. I do not.

Senator PASTORE. Have you heard of him?

Mr. PITTMAN. Yes.

Senator PASTORE. Do you know of his reputation?

Mr. PITTMAN. Yes.

Senator PASTORE. Do you consider him an intellectual?

Mr. PITTMAN. I don't consider him a Negro. He has at least two- or three-fourths white blood.

Senator PASTORE. He is not a Negro?

Mr. PITTMAN. By definition, yes.

Senator PASTORE. Do you think that Mr. Bunche, if he came to your city should be allowed to sit at the next table where you are eating?

Mr. PITTMAN. I wouldn't mind him, myself. But I do think he shouldn't want to.

Senator PASTORE. He shouldn't want to? What if he did?

Mr. PITTMAN. What is that?

Senator PASTORE. Do you think that you would be justified—

Mr. PITTMAN. I think if he is a Negro he should stay with his people.

Senator PASTORE. And he should not be allowed to sit in the same place where you sit?

Mr. PITTMAN. It is not a question of allowing. It is a question of pushing. I don't think any white man or Negro should push himself onto other people.

Senator PASTORE. Let's assume that he came to your city——

Mr. PITTMAN. I would like to finish reading this.

Senator PASTORE. I know you would like to finish reading that, and I would like to ask you a question.

Let's assume that he came to your city. Do you think that the owner of the place where you were eating would be justified in turning him away from the door because he is Negro?

Mr. PITTMAN. Not anyone but makes himself a fool in Georgia would send him away hungry, or any other, black or half-white.

Senator PASTORE. Do you think that his children should go to school in the same public school as your children?

Mr. PITTMAN. I think that separation of the races—and it has been shown that it is necessary for the education. There are overlaps, it is true. There are exceptions, it is true. I read not long ago that a shepherd dog overlapped a lot of white people in an IQ test.

You have to be practical in making lines of division and classifications under the 14th amendment.

Senator SCOTT. You made some statement, Mr. Witness, about Italians not doing very well.

Mr. PITTMAN. Let me read that.

Senator SCOTT. Yes; would you read what you said about the Italians? I have a little streak of Italian blood in me, and I would like to hear it.

Mr. PITTMAN. I have a little streak of some that are mentioned in here; but I didn't write it. If I had I would have left it out. [Reading:]

In the case of the American Indian, the IQ's are also low, the majority being between 70 and 90. Mexicans do only slightly better. Chinese and Japanese, on the other hand, show relatively little inferiority to the whites, the IQ's ranging from 85 to 114, with an average only slightly below 100.

Senator SCOTT. What was it you said just before?

Mr. PITTMAN. I will get to it.

Senator SCOTT. All right.

Mr. PITTMAN (reading):

Among European immigrant groups, Italians have, in general, made a poor showing.

Senator SCOTT. Would you stop right there and let me observe that the attorney general of Pennsylvania is an Italian-American, and we have Italian-Americans in high office throughout my State, and I——

Mr. PITTMAN. I am glad you brought that up.

Senator SCOTT. The Italian people generally have made an excellent showing.

Mr. PITTMAN. I think Klineberg got out on a limb there, don't you? I really do.

Senator PASTORE. I don't know. As a matter of fact I think you are getting out on a limb.

Mr. PITTMAN. No, I am reading Klineberg. He is the patron saint of equalitarians.

Senator PASTORE. All you are saying in effect is that when these immigrants came to this country they came from more or less the peasant groups, they hadn't had the same opportunities, and then they developed with the evolution of time. And the reason why the Negro in many instances cannot match intellectually——

Mr. PITTMAN. Oh, I—

Senator PASTORE. Wait a minute. Let me finish. I have listened to you for an hour.

The reason why the Negro cannot be matched sometime scholastically with the white man is because he hasn't been given the opportunity. But, given the opportunity, we are all made in the image of Almighty God. There is no special preemption to one race as against another race. There is such thing as a clear race. We are all children of the same creation. And given the same opportunity we will all react in the same way.

And this idea of coming in here, because the history is such that these people haven't been given an equal opportunity, and trying to show that they are not worthy of consideration only because of circumstances beyond their control, in my humble opinion, sir, insults your intelligence.

And I don't know the point you are trying to prove.

Mr. PITTMAN. If the Senator pleases, it will be made clear, if you will listen.

You asked me to continue reading that:

Poles do equally poorly and in the Army tests were even slightly below the Italians.

And, by the way, let me say this: I don't read from anyone who might be called a rightwinger.

Senator PASTORE. You are a lawyer. I understand you are a lawyer of some eminence.

Who is the father of all law? Is he not Justinian?

Who is the man who controlled chain reaction? Wasn't it Enrico Fermi?

Who gave us the law of gravitation? Wasn't it Galileo?

We don't have to get into that this afternoon.

Mr. PITTMAN. God did that.

Senator PASTORE. God did what? Gave us the law of gravitation?

Mr. PITTMAN. Galileo didn't invent it.

I continue to read from Otto Klineberg. I knew this would cause trouble and entertain the audience.

Immigrants from northwestern Europe have, in general, been more successful, and the demonstration by the Army psychologists that in the test results the immigrants from Great Britain, Holland, Germany, and the Scandinavian countries were superior to others has been corroborated by more recent studies.

That is from Klineberg, that quotation. I took it from a book entitled, "The Idea of Equality," published in 1950. It is an anthology collected by Abernethy.

Senator SCOTT. Mr. Witness, I am a sort of a United Nations myself. I am part English, part Scotch, and part Irish, and a little Italian.

Mr. PITTMAN. We all are.

Senator SCOTT. And some Dutch.

Which part of me would you say is superior to the other? I am wide open. I give you a chance.

Mr. PITTMAN. I am not saying. You call Klineberg down here as a witness. He will tell you. He is your man. He is not mine.

Senator SCOTT. He is not mine. I don't know the man at all.

Mr. PITTMAN. Let me read a little more—

Senator SCOTT. I have enough conflicts without deciding which part of my blood is warring with which other part.

Mr. PITTMAN. By the way, my father was a Confederate soldier, and my granddaddy a captain in the Union Army.

Senator PASTORE. How much longer are you going to be reading from a document from a man that every time we ask you a question you say get him down here and he will give you the answer? How long are you going to keep on quoting someone and refusing to answer for him?

Mr. PITTMAN. When I finish this paper.

Senator PASTORE. What do you mean, "finish this paper"? How long will it take you?

Mr. PITTMAN. Oh, about 8 minutes.

Senator PASTORE. All right, you may proceed.

Mr. PITTMAN. Recently there was a case tried in Savannah, Ga., in which the judge followed the evidence. The evidence led him to a conclusion contrary to the conclusion that the Supreme Court came to upon the evidence in that record in the *Brown* case.

The evidence in that case, here it is, disclosed that the brain of the average Negro is 10 percent less than the brain of the average Caucasian.

Now wait just a minute. I wouldn't say that if Franz Boaz had not written that, and I will read that.

Senator PASTORE. Before you read it, do you believe it?

Mr. PITTMAN. Do I believe it?

Senator PASTORE. Yes.

Mr. PITTMAN. It is documented.

Senator PASTORE. What?

Mr. PITTMAN. It is documented. I can leave with you articles from a number of—

Senator PASTORE. I didn't ask you that question.

Do you believe it?

Mr. PITTMAN. Of course I do.

Senator SCOTT. Hitler's "Mein Kampf" is documented, too, if you want to use that.

Mr. PITTMAN. Let me read you what Franz Boas said. He is the anthropologist that the NAACP relied on, and Myrdal relied on in his work entitled "The American Dilemma."

Here is what he said:

We will now turn to the important subject of the size of the brain, which seems to be the one anatomical feature which bears directly upon the question at issue. It seems plausible that the greater the central nervous system, the higher the faculty of the race, and the greater its aptitude to mental achievements.

Let us review the known facts. Two methods are open for ascertaining the size of the central nervous system—the determination of the weight of the brain and that of the capacity of the cranial cavity. The first of these methods is the one which promises the most accurate results.

Naturally the number of Europeans whose brain weights have been taken is much larger than that of individuals of other races. There are, however, sufficient data available to establish beyond a doubt the fact that the brain weight of the whites is larger than that of most other races, particularly larger than that of the Negroes. That of the white male is about 1,360 grams.

The investigations of cranial capacities are quite in accord with these results. According to Topinard, the capacity of the skull of males of the neolithic period in Europe is about 1,560 cubic centimeters.

Senator PASTORE. What is that supposed to prove?

Mr. PITTMAN. I am giving you the statistics.

I will give you the Negro statistics.

Senator PASTORE. What is that supposed to prove? Why are you giving us those statistics? To prove what point?

Mr. PITTMAN. I don't know whether it proves anything or not. I know for several thousand years it has always been said that the people with the most brains have the most intelligence. You have said that, and I have, too. He doesn't have any brains.

Senator SCOTT. You mean by weight?

Mr. PITTMAN. What?

Senator SCOTT. You mean by weight? Therefore the fellow who has bigger feet is more—

Mr. PITTMAN. I didn't say that. Boas is dead, by the way.

Senator SCOTT. Now he knows better, you see.

Mr. PITTMAN. What is that?

Senator SCOTT. He is dead. Now he knows better.

Mr. PITTMAN. Maybe so.

Let me tell you this: he didn't write this before he became a Communist. I mean he wrote this before he became a Communist. He didn't write it afterward.

Senator SCOTT. He was on the way.

Mr. PITTMAN. He continues:

In interpreting these facts we must ask, "Does the increase in the size of the brain prove an increase in faculty?" This would seem highly probable, and facts may be adduced which speak in favor of this assumption.

First among these is the relatively large size of the brain among the higher animals, and the still larger size in man. Furthermore, Manouvrier has measured the capacity of the skulls of 35 eminent men. He found that they averaged 1,665 cubic centimeters as compared to 1,560 general average, which was derived from 110 individuals. On the other hand he found that the cranial capacity of 45 murderers was 1,580 cubic centimeters, also superior to the general average.

The same result has been obtained through weighings of brains of eminent men. The brains of 34 of these showed an average increase of 93 grams over the average brain-weight of 1,357 grams. Another fact which may be adduced in favor of the theory that greater brains are accompanied by higher faculty is that the heads of the best English students are larger than those of the average class of students—citing authority.

I think that I demonstrated an article that was published in the American Bar Association Journal entitled "Equality Versus Liberty: The Eternal Conflict," which, by the way, was introduced in the Congressional Record in 1960, that the specious propaganda that all men are created equal, and that there are not such differences between whites and Negroes as are significant for educational and social purposes underlies the entire integration movement. That specious doctrine is the foundation of the Senate bill 1732. It was the foundation for *Brown v. Board of Education*.

It is not a question of inferiority or superiority; it is a question of differences. Which is superior, a holstein or a hereford, an English setter or a beagle hound, a quail or a dove? You can't answer that question without asking "For what purpose?" Certainly the Negro is a superior prizefighter and is superior in other ways because God made him different. The same differences extend throughout the animal kingdom.

When I was a boy I tried to train a rabbit dog and a bird dog together. I ruined them both. They were different.

Now I am through. I will answer any questions, or attempt to. I knew they would come hot and fast.

Senator PASTORE. No, they are not going to come as fast as you think. Senator Thurmond?

Senator THURMOND. Mr. Pittman, I wish to thank you for your presence here and the contribution that you have made to the hearing.

Mr. PITTMAN. Thank you.

Senator PASTORE. Senator Morton?

Senator MORTON. Mr. Pittman, throughout your testimony, and that of other witnesses, we have heard a lot about the Communists being responsible for demonstrations and other things going on in this country in connection with our problem of racial relations.

You will admit, won't you, that we have a problem?

Mr. PITTMAN. I certainly will.

Senator MORTON. If in 1918 Mr. Lenin, Kerensky, and others had been unsuccessful in the Bolshevik revolution, if today there was a czar in what is now Leningrad, what was then St. Petersburg, would we still have a problem in racial relations in this country?

Mr. PITTMAN. I didn't get that.

Senator MORTON. If there were a czar on the throne of Russia today and there were no such thing as a Communist complex in Moscow, wouldn't we still have a problem in this country today in the matter of relations between the races?

Mr. PITTMAN. We are going to have problems until the end of time, as Aristotle said, if you mix races. If you leave them apart there is no antagonism.

Senator MORTON. Your answer is that we would have this problem here even if there were not a Communist government in Russia?

Mr. PITTMAN. Well, the problem was not acute until after 1954. It became acute then.

Senator MORTON. But this is a problem, you will admit?

Mr. PITTMAN. I will admit it is a problem.

Senator MORTON. And this problem would have existed, would have been with us today, in the year of Our Lord 1963, regardless of what happened in a revolutionary movement in Russia in 1918, would it not?

Mr. PITTMAN. May I read an answer to that that was written by the Anti-Defamation League?

Senator MORTON. I have heard you read enough. I would like your own opinion.

Mr. PITTMAN. My answer to that is that communism has sought to bring about racial animosity in this country. They started it and they are still doing it.

Senator MORTON. I don't doubt for one minute, Mr. Pittman, that communism moves in to serve its own ends wherever there is any sort of trouble, be it race relations or anything else, be it a violent strike, be it anything.

I was asked the question in Birmingham—I happened to be there at the time of the demonstrations there, and I was asked at a press conference, "Are the Communists in this in any way?" I said, "I don't know whether there are any Communists in Alabama or not; but if there are, they are here, capitalizing on this."

This I grant and admit.

My point is that the basic problem would not have been solved if the thing had gone the other way in 1918, in Russia. And I think there is a common denominator through testimony from witness after witness expressing your point of view. I, as an individual, have an open mind on this legislation. But I am getting sick and tired of hearing this whole matter oriented and compartmented into "This is all the doings of the Communists."

It is so easy for us to say this is going wrong in the country and it is the Communists' fault. I think we have to separate this out into the problem that is there and basic.

I maintain that regardless of who won the revolution, or who put it down in 1918 in Russia, that this is a problem that is going to be with us in 1963, 1964, or whatever year you want to take, regardless of what happened to the czarist empire.

Mr. PITTMAN. Ordinarily I wouldn't use some of the words, like "communism," that I have, except for the treatment that two Governors from the South received, and I thought I would use the word "communism" where I hadn't intended to, to associate myself with them.

But I think this goes way back beyond the revolution. There was a Communist involved in the French Revolution. Communism wasn't created by the leaders of the Russian revolution.

Senator MORTON. I suppose we could blame the fall of the Roman Empire on communism if we want to go that far.

Mr. PITTMAN. The same causes produce the same effects, then and now.

Senator MORTON. I am not too good a student of history. I thought it was in some way associated with the works of Karl Marx. My memory is that it was after the fall of the Roman Empire, some centuries. How many counties are there in Georgia, sir?

Mr. PITTMAN. Oh, about 156. We are just loaded with counties.

Senator MORTON. When was the last county created; do you know?

Mr. PITTMAN. The last county was created, I believe, created around 1980.

Senator MORTON. I think that is about right. Long after automobiles came and this question of getting to the courthouse and back to the farm and getting the milk?

Mr. PITTMAN. That is right.

Senator MORTON. For what purpose were all these counties created?

Mr. PITTMAN. You know, your question answers that question, because back then it was the horse and buggy days.

Senator MORTON. Not in 1980.

Mr. PITTMAN. They had to ride to court on a mule or horse, so the counties were made small enough to where they could get to court.

Senator MORTON. No relationship to the so-called county-unit system that you have?

Mr. PITTMAN. I have to say "Yes," that there was some relationship.

Senator MORTON. In other words, basically to permit a minority to maintain political power. Is that a fair statement?

Mr. PITTMAN. Well, not necessarily. Basically it was to—local politicians, you know, are just as hungry for power and tax money as national politicians. So the local politicians are always looking for a

chance to have a unit of government in which they may rise to the top. You just try to destroy a county, and you have a sheriff, a clerk of court, you have a tax collector. When they all get together they have power. So there are many elements involved in that question.

Senator MORTON. Aren't there counties in your State that have, let's say, 4,000 or 5,000 voters, a maximum of that?

Mr. PITTMAN. Yes.

Senator MORTON. How many people are in, let's say, Fulton County?

Mr. PITTMAN. Oh, if you listen to the mayor—I won't mention his name—the people of Fulton County, they say there are twice as many as there are. They say they have a million.

Senator MORTON. Suppose they have half a million in Fulton County. Under your unit system didn't those 4,000 or 5,000 have 2 votes—

Mr. PITTMAN. They had eight. My county had two for many years, and four later.

Senator MORTON. And Fulton County had six or eight?

Mr. PITTMAN. It had eight; yes, sir. The voting power of the city was reduced. Very definitely the race problem had something to do with it. If you read Integrator's famous Boston speech, he deals with that question.

Senator MORTON. Do you personally disagree with the recent Court decisions which will probably eliminate your county unit system in Georgia. Do you prefer the unit?

Mr. PITTMAN. You have asked me two questions. I will answer the first question first.

Do I disagree with that decision? I do, because it is raw usurpation of power by the Supreme Court. It has no authority under the Constitution to make such a decision.

Now, as to the policy of it, I would say that that is a matter for the States to determine, the people of the States to determine in their own ways.

This much is true: The concentrated control and purchasable vote is largely in the big cities. There is now and there always has been a fear of the purchasable vote. In the small towns and small counties, there seems not to be that kind of fear. However, there has been corruption in those areas as well.

Let me say this in that connection. In my small county, a higher percentage of Negroes are registered than of whites, and have been for many years.

Senator PASTOR. May I interrupt? I would hope that the Senators would cooperate. We are meeting here again at 1 o'clock on the railroad matter. I would like to get finished with this witness as soon as possible.

Senator MORTON. I appreciate that, Mr. Chairman. I think I will waive any further questioning of him. I might make this one observation, that I, too, am somewhat of an authority on the big city vote. I presided over my party when we considered the big city vote lost us the Presidency. But nevertheless, I don't want to see things gerrymandered so that a citizen of this Nation, be he in a big city or be he on a farm or be he in a small county or large county, has less responsible voice in managing his own affairs and in his participation

in government because he happens to live in Fulton County rather than in Dalton, Ga.

Mr. PITTMAN. When it comes to intelligence, is it not better that the ballot be handled by the most intelligent—

Senator MORTON. From your statement we are the only two States in the Union that have the 18-year-old voting privilege. This is a matter to be decided. Once you decide that a man or woman, black or white, Protestant or Catholic, Jew or gentile, if a citizen of this country, he should have an equal voice in the election of officers.

Senator PASTORE. Senator Scott?

Senator SCOTT. I also presided over the problems of my county and presided over the problems of my party at one time. I share the sentiments of Senator Morton. I heard you say two things there: One, the usurpation of power by the Supreme Court. But in defending the county unit system, are you not arguing for the minority that the usurpation of power should take place at the lower level?

Mr. PITTMAN. Not at all. The Constitution gives neither to the Congress nor the Supreme Court any authority whatsoever with respect to the qualification of electors. That was in the Constitutional Convention, and nothing was made plainer than that that should be left to the States.

Senator SCOTT. Your very last remark, as I understood it, was that the ballot should be handled by the more intelligent people.

Do you really believe that in a democratic republic that any such theory as that actually has any place? Isn't that actually the belief of Mr. Castro, that we have been talking about here; isn't that the belief of every dictator who has faith in 100 percent phony elections, that the ballot ought to be handled by the most intelligent people? Who in Heaven's name is to determine who are the most intelligent people?

Mr. PITTMAN. It is determined by laws in most of the States now.

If everyone is to be equal, why shouldn't Senators be elected by lot instead of vote? Years ago the officials were sometimes elected by lot. They just put everybody's name in a hat and drew it out, if they are equal.

Senator MORTON. I sometimes think they would have a better chance.

Mr. PITTMAN. Yes, I am sure they would. I am sure I would.

Senator SCOTT. I am inclined to agree with that.

Mr. PITTMAN. Aristotle's view, I read it—he said you will destroy free government—

Senator SCOTT. We are almost through and I won't say much more. I find one thing in your statement that I can agree with, although we approach it from different ends. I agree with Patrick Henry when he said, "I dread the depravity of man." But I dread it for a very different reason, Mr. Pittman, than you dread it.

And I dread the depravity of man which refused to recognize that when God made a little white boy and a little black boy, that God said to the little white boy, "Go down there and boss the little black boy around." This is hard for us to understand, but to me, those who believe that God made man different one from another, in the sense of this right to be equal under the law, is in line with what Patrick Henry said: "Virtue will slumber, and I dread the depravity of man."

Mr. PITTMAN. I agree with the Senator there.

Senator SCOTT. Algernon Sidney's quote I think you could hang over a restaurant, I would like you to see it, and see what you think of it, if you would open the door of the restaurant. Let's imagine that in your town of Dalton, your city, your county, your community, there appeared the Algernon Sidney Society quote over the door of one of your restaurants:

Man is of an aspiring nature and apt to put too high a value upon himself. They who are raised above their brethren know but a little and desire to go farther; * * * they think themselves wronged and degraded when they are not suffered to do what they please.

Then your restaurant proprietor would admit that he is not suffered to do what he pleases, but to do what is just, to do what is equal. Would you object to seeing that over the restaurant door?

Mr. PITTMAN. Not at all. But I think it would be better, more appropriate, to put it over the courthouse door.

Algernon Sidney was not referring to restaurant owners and hamburger joints. He was referring to the politician.

Senator SCOTT. I think that is all.

Senator PASTORE. Senator Hart?

Senator HART. I think I have no questions, Mr. Chairman.

I enjoyed very much Mr. Pittman's prepared statement, that is, the statement that was delivered to us which he read first.

Mr. PITTMAN. Thank you, Senator.

Senator HART. I disagree with the conclusions, I think, all the way. But it was most interesting.

This was completely destroyed by the second statement.

Mr. PITTMAN. I apologize if I have offended anyone. I didn't mean to.

Senator PASTORE. We will stand in recess for this particular hearing until 9:15 Monday, in room 5110.

We will meet again in this same room at 1 o'clock on the railroad matter.

(Whereupon, at 12:25 p.m., the committee was adjourned, to reconvene at 9:15 a.m., July 29, 1968, in room 5110.)

CIVIL RIGHTS—PUBLIC ACCOMMODATIONS

MONDAY, JULY 29, 1963

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met, pursuant to recess, at 9:23 a.m., in room 5110, New Senate Office Building, the Honorable John O. Pastore presiding.

Senator PASTORE. The witness appearing before us this morning, who will be introduced by our distinguished colleague, Senator Spessard Holland, is here by invitation of our distinguished colleague, Senator Thurmond of South Carolina.

He is Farris Bryant, Governor of the State of Florida.

Governor, we are honored and privileged to have you here this morning to express your views on this important legislation.

Now I shall recognize the Senator from Florida for introductory purposes.

Senator HOLLAND. Thank you very much, Mr. Chairman and Senators of the committee.

It is my happy privilege to present to this committee this morning our Governor, a very fine Governor, from Florida.

Governor Bryant is a native of our State. He should certainly be able to speak for the people of our State because of his long experience not only as a lifetime Floridian but as a member of the State legislature in the lower house where he was speaker of the house serving with distinction, and serving now as Governor after a very impressive victory in his election for that post.

Governor Bryant received his academic degree at our State university. He received his law degree at Harvard University.

Besides being a fine public servant and outstanding citizen, he is a very great lawyer.

Therefore, it is my privilege, speaking for my distinguished colleague, Senator Smathers, who is necessarily absent on official business, and myself, both of us his long-time and long friends, to present to this fine committee the Honorable Farris Bryant, Governor of Florida.

Governor Bryant.

STATEMENT OF HON. FARRIS BRYANT, GOVERNOR OF THE STATE OF FLORIDA

Governor BRYANT. Thank you, Senator Holland. I appreciate your generous remarks.

Senator PASTORE. All right. Now, your Excellency, you may proceed in whichever way you wish.

Governor BRYANT. Mr. Chairman and Senators, I do appreciate this opportunity to present to you my views on Senate bill 1782, in the hope at most that I can add some small grain to that storehouse of wisdom which I know this distinguished body, individually and collectively, already possesses.

I am fully conscious that if the things I have to say here this morning are worth saying and hearing it will be because of the experience I have gained as Governor of one of the States of this Union at a time in which it has rested in large part upon the executive branch of the government to chart a course for the people to follow in otherwise uncharted waters.

Florida is a State with an experience in population dynamics, including the mingling of the races, which should be of some value. It is the fastest growing State in the Nation, and the appeal it has for new residents is not limited to any group or class or race or religion of people.

It is a State with a growing Negro population which constitutes a percentage of its total population well above the national average. Unlike some other States its Negro population is not decreasing; indeed, the rate of increase of its Negro population, roughly 46 percent in the last measured decade, is almost twice the national average.

Florida's experience is also unique among the States of the Union in that it has been and it is today the host to a tide of refugees from foreign tyranny. For the first time in the history of the United States this Nation is a port of first asylum for refugees from foreign tyranny, and Florida is the point of impact.

These refugees have numbered in excess of a quarter of a million people. These people, with a different language and a different culture, have been absorbed and assimilated into our cities, our schools, our hospitals, and our homes.

We have been assisted by the Federal Government, and I think with that assistance we have achieved a record in Florida that is a credit to the entire Nation.

I point out to you that we have been assisted by the Federal Government. We have not been coerced. And I speculate that if coercion had been the means of securing the conduct, it would not have been as good.

I submit to you that out of this record which the people of Florida have made there is some wisdom to be gained. Florida, with its roots in the South, but with its spirit fixed on Cape Canaveral, has been and is in the mainstream of all the currents flowing across this Nation.

Yet with all this, the names of the cities of Florida have not been spread across the headlines of the world as a herald of violence and of the incapacity of a people to resolve their differences within civilized institutions.

Indeed, if you should inquire of the Department of State, I am confident they would tell you that the government and the people of Florida have been of active assistance to our National Government in providing hospitality to visitors from governments all over the world.

I am not here today to argue the case for segregation—nor against it.

I am not here to question the power of the Federal Government to do what it is proposed by this bill to do.

I am here to argue the case for freedom.

The real issue you must resolve is between conflicting demands for freedom.

On the one hand, the traveler demands the freedom to buy what he wishes to buy, in a hotel, a theater, or anywhere that there are things to sell.

I believe that he should have that freedom—provided, of course, he does not violate the freedom of others.

There is the crux of the matter.

I do not think we are talking about the commerce clause today. Candor, it seems to me, forces the acknowledgment that the commerce Clause is just a convenient peg on which to hang this particular hat.

What is here attempted is to give primacy to the freedom of some to go where they wish and to buy what they wish over the freedom of others to own private property.

I have seen some suggestions that the real contest is between "human rights" and "property rights." That is not so.

Property has no rights. Humans have the right to own property, just as they have the right to speak, and to worship, and to travel from State to State.

One man owns a piece of property. He has earned it. He may have acquired it by saving money he otherwise would have spent for some other purpose, perhaps for the pleasure of travel.

He may have acquired it by borrowing and thereby risked the security of his age and his family.

He may have acquired it by working long hours while others rested or played.

In any event, it is his—by law and by every principle of justice.

What this bill S. 1732 proposes to do is to take part of that right away from him and give it to someone else who has never earned it.

We are dealing here today with property rights. The only question is: Who shall have those property rights? Shall it be the man who has earned? or the man who has coveted that which he has not earned?

The only "human rights" involved are the rights of some humans against the claims of other humans.

The debate in which we are now engaged is over the assertion of a new right: the right of nonowners of property to appropriate it from the owners. The new right is asserted in the name of equality. Differently stated, this is a debate between those who seek to preserve freedom in the use of property by its owners and those who would appropriate a part of the bundle of rights which make up that ownership, without compensation, to the public, in the name of equality.

May I suggest, gentlemen, that the proper goal for the Congress to seek is not a transfer of property rights, but freedom. We would all agree that the traveler is free and should be free not to buy. He can pass a hotel or a motel he does not like because he does not like the town, he does not like the color of the hotel, or he does not like the name.

He can stop and go in; and when he sees the owner he can decide he does not like him because he does not like his mustache, or his accent, or his prices, or his race, or his other customers. He can turn around after he has gone in and observed what is there and walk out for any reason or for no reason at all.

Why not? He ought to be able to do these things. He is a free man. So is the owner of the property. And if the traveler is free not to buy because he does not like the owner's mustache, accent, prices, race, other customers, or for any or no reason, the owner of the property ought to have the same freedom.

That, it seems to me, is simple justice. The wonder is really that it can be questioned.

The argument is made that this invasion of property rights is nothing new—that our courts have for years upheld laws on zoning, minimum wages, collective bargaining, et cetera. I submit that the comparison is superficial, and the argument misleading. The difference in degree is so great that it amounts to a difference in kind. The same argument would sustain price control or rationing. The same argument would sustain the equal ownership of property, which can only be achieved through ownership of all property by the state in the name of the people.

We have heard a great deal in this last decade about the 5th amendment, about the 10th amendment, about the 14th amendment, and surely all of these deserve our respect and our attention. But I call your attention now to another amendment to our Constitution which has never been modified or superseded. It is the ninth amendment to the Constitution and reads thusly:

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

My petition, Senators, now is that you not deny or disparage the right of the people to own property—that you not further restrict their freedom.

In our eagerness to make all things right with the world, let us not forget that inherent in and inseparable from freedom is the capacity to make errors. If this Government were all wise and all powerful, it could prohibit all error. In such event this might be a better nation. But it would not be a free nation. And the state would have taken the place of God.

I think I can understand the aspiration of minority groups to improve their status. Nothing is more American than to aspire. But surely we should remember that when the majority loses its freedom, the minority loses its hope of freedom.

It would be a tragic mistake, gentlemen, if we in this Nation tried to purchase equality for minorities and as a part of the price that we paid gave up freedom for all.

Thank you, gentlemen. That concludes my initial remarks.

Senator PASTORE. Thank you very much, Governor.

Senator MONRONEY.

Senator MONRONEY. Governor, I appreciate very much your statement and your willingness to appear here.

I wonder, in your mention of interstate commerce and the basis on which the administration rests this primary constitutional responsibility, if you would draw a distinction as I do, for it would somewhat conflict with your testimony here on property rights.

There are those who choose to engage in interstate commerce by their own act of establishing multiple operations within many States or to service transportation facilities and engage in serving people from various points of the Nation. If these organizations do choose to engage in that and if the rule of law is, and I think the principle has been pretty well settled, that we must serve people in airports—we do in Miami and other places—then would not this conflict with your statement of property rights being sacred to the owner of that business?

Governor BRYANT. Sir, I think the best answer to that is to apply a little mathematics to it to see to what extremes and what points your logic leads you.

For instance, if you are trying to prove that two parallel lines never meet, you figure out what would happen if they did meet as one of the possibilities.

Now, what you are saying here, of course, would presuppose that anything in the name of the public interest and anything that touches interstate commerce could be justified under the commerce clause.

Senator MONRONEY. This is what the administration says. I question that.

Governor BRYANT. I beg your pardon.

Senator MONRONEY. I question it.

Governor BRYANT. I beg your pardon. I thought you differed with our position on this.

My position is purely and simply that while I believe that the Federal Government has the power to do, I do not believe it has the right to do what it is suggesting be done here.

And the reason for that is because to follow this to its ultimate conclusion in the case of private property of this kind is to take over property.

Now, interstate facilities such as airports and bus terminals are the recipients of monopoly licenses which vest them with a public interest which is not peculiar to private property of hotel owners and restaurant operators in situations of this kind.

I do not know if I am addressing myself to the point you are making or not.

Senator MONRONEY. You are. What I was trying to develop is whether in the service of interstate commerce the private property thus is forced to be opened by Government edict, mandate, and how can we distinguish between what we compel some owners to do in interstate commerce and those who have private property that are not so thoroughly engaged.

Now, I too question very seriously the spread of the commerce clause to take in every hamburger stand and every 10-room motel and every guesthouse and things of that kind. I do feel that firms that operate in interstate commerce, firms that deal primarily with travelers from other States of a large enough size to be important in the economic picture, are properly under the commerce clause. I do not know how you define them, but I can recognize some validity to that point.

If you narrow it down to the small individual owner of a converted home for guests or to very small operations, owner-operated perhaps, with very few people, in service of food or other things, it is hard

for me to spread this big cloak of the commerce clause over everything simply because food may come from one State and come to rest in another State. It would put every single line of business that a man can imagine under Federal control from now on, not just on bias or prejudice but on anything else the Government would choose to go and do, whether it be licensing or price control or otherwise.

And I just wonder if you could develop a little more clearly if you consider there are exemptions, as you must, in the interstate service of airports and railroads and bus stations.

Governor BRYANT. Sir, I think clearly where the operator of the business is the recipient of a Federal monopoly franchise, limited or complete monopoly, obviously if he takes on the monopolistic character he must do so under the restrictions imposed by the granting power.

It is quite true that the interstate traveler when he goes by bus or by airplane is in practical fact more or less limited to the monopoly owner or to the monopoly operator for his business, and it is right that the monopoly operator of the business be required to give him service.

But when you get out beyond that, it seems to me you take away one of those bundles of rights which make up the private ownership of property and which is not, it seems to me, vested with a public interest.

Senator MONRONEY. You would more or less limit it then to, you might say, interstate utility operations?

Governor BRYANT. Interstate, yes, sir.

Senator MONRONEY. I would not think you could cut it off that closely and not be guilty of very seriously interfering with interstate commerce to limit it just to those things.

You have had good experience in probably handling more interstate travelers in Miami than any other city in the Union. You have just successfully, I think, taken the American Legion convention to Miami away from New Orleans.

Now, is that completely desegregated or is it desegregated only for the purpose of conventions so that when the conventions are through the policy of segregation then goes back on?

Governor BRYANT. Sir, it is a matter for the individual operator. Each hotel owner decides for himself how he wants to operate his hotel. The Fontainebleu, the Americana, many of the great name hotels there, and a great many of those with other status, and there are other great ones there, voluntarily integrate at all times. Others choose to cater to, let's say, the Jewish trade or the white Protestant trade or some other trade. And each individual is free to operate as he deems proper.

What we have found in Florida, where we make a business of handling interstate travelers as a large part of our industrial component, is that the economic requirements of the operators evolve a pattern of operation which satisfies any substantial demand.

In the American free enterprise system where there is a demand, there will be ultimately a supply. And that is what has happened in Florida. There is a supply. Where there is the demand there will be that supply.

Senator MONRONEY. Do you have enough hotels there that would choose to desegregate to make a competitive condition among them-

selves and adequate service you feel for any traveler of any race or any creed?

Governor BRYANT. Well, we are able to handle the Democratic National Convention—had we been able to get it—or we are able to handle the day-to-day travel of tourists which has made Florida the mecca for people all over the world.

Senator MONROEY. Thank you very much, Governor. That is all the questions I have.

Senator PASTORE. Senator Cotton.

Senator COTTON. Governor, I join the other members of the committee in bidding you welcome here.

I am interested in your statement. I feel perhaps I have a certain vested right in you as Governor of Florida because at certain periods of the year you are flooded with Yankee Republicans who come down from our States and invade your territory.

Governor BRYANT. Some of them stay until voting time too, Senator.

Senator COTTON. You do not discriminate against them?

Governor BRYANT. No, sir.

Senator COTTON. I also feel a certain interest in your presentation because, like yourself, I represent a State that specializes a good deal in resort hotels, and, unfortunately, in human nature there has always existed a certain amount of snobbery not as between whites and blacks but as between whites and whites.

And I know resort hotels in my State that have been patronized by certain exclusive groups. I do not know if I had the money to go there that I would have any fun going there because I think that I would not qualify.

That is not a good trait in human nature, but it is a trait that has to be considered by hotel resort owners and operators who are catering to the public.

Is that correct?

Governor BRYANT. Yes, sir.

Senator COTTON. Now, what interests me in your statement was your reference to the ninth amendment. I also gather you are a lawyer?

Governor BRYANT. Of a sort, yes, sir.

Senator COTTON. And that ninth amendment refers to what we sometimes call reserved rights. Is that correct?

Governor BRYANT. Of the people.

Senator COTTON. I have had certain correspondence from a retired justice of the highest law court in my State, a man now nearly 80 years old, who has been an eminent jurist all his life and has served on the courts before he retired for many, many years.

He expresses concern in his letter and suggests that the bill now currently considered by this committee invades what he calls reserved rights.

I am interested in this. He says:

Since this whole matter centers upon civil rights, what are civil rights as now found in the Constitution and the Bill of Rights?

They are distinctly set down thus:

Freedom of religion.

Freedom of speech.

Freedom of press.

Freedom of assembly.

Freedom of petition.

Right to keep arms.

Freedom from quartering soldiers.

Freedom from unwarrantable search and seizure.

Fair trial in court.

Right to vote.

All these are held equally by white and black with some limitations, such as that they must be exercised in an orderly fashion. All other individual rights are specifically reserved to States and to individuals. All men without respect to color, can exercise their reserved rights, one of which is to engage in a lawful employment if they can make a success at doing it.

In my opinion, there is a positive reserved right for each person to choose freely whether he will associate with any other on his own terms.

Then he goes on to discuss this with relation to hotels, particularly resort hotels, restaurants that are not connected with terminals, railroad, bus, air, and retail establishments, which he seems to find particularly shocking when he says:

Where can there be found constitutional authority to force the owner to sell if for any reason he wishes to exercise his free choice?

Now, you are the first witness before this committee when I have been present who has specifically referred to these reserved rights in the Constitution.

Am I correct that the basis of your testimony largely is based on what you consider as a constitutional lawyer to be rights that are reserved to the States and to the people?

Governor BRYANT. You state it so much more beautifully than I could, Senator.

Senator COTTON. I did not. It was my constituent that stated it.

Governor BRYANT. I am delighted to have the support of such an eminent jurist.

Two bases, basically. One is the rights inherent in the ownership of property which I understand to be protected by the Constitution. And, two, the reserved rights to the people which shall not be disparaged or denied as guaranteed by the ninth amendment.

Senator COTTON. Your protest here today is not against integration but is against integration socially at least, not politically, by Federal action?

Governor BRYANT. Sir, my petition is for freedom which is the antithesis of forced segregation or forced integration.

Senator COTTON. The Negroes have the same right with the same test to vote in Florida that white residents have?

Governor BRYANT. They do. And I am so very proud that our Senator, the senior Senator from Florida, has been in the forefront on the national scene of insuring that right everywhere by constitutional means.

I do not say to you, Senator, that there are not any violations of individual rights relative to voting, but they are minimal and disappearing.

Senator COTTON. Most of us, I am sure, join in commending your distinguished Senator for his constant fight for the poll tax amendment, and I am proud to be one of those who joined him as sponsor and whose State helped to ratify it.

If this is not a fair question, please do not answer it. Personally as a citizen of the State of which you are the distinguished Governor, if you did not find Federal law either under the commerce clause or the 14th amendment attempting to force it, would you consider it

desirable that public places of accommodation should refrain from making distinctions on the basis of color?

Governor BRYANT. I would think that there ought to be everywhere, and I believe that there is and will be—there is in Florida and will be everywhere—adequate facilities for all people regardless of race or color.

Senator COTTON. What is the situation in Florida as regards segregation in the schools?

Governor BRYANT. While that is not my principal purpose in being here, and while we do not keep records on the basis of race in our schools as requested by the U.S. Department of Education, I do have information indicating that some 71 percent of the children of Florida do attend schools in integrated districts.

Senator COTTON. I am not quite sure I understood you. You said you do not keep records as requested by the Federal Department of Education?

Governor BRYANT. Yes, sir; their forms that they send out have been changed so that you can no longer indicate—and this was the purpose, the initial purpose for compiling them—records on the basis of race.

And our Florida State Department of Education some time ago, consistent with the Federal policy, quit collecting statistics on that basis.

We pay all of our teachers, for instance, without regard for race, the same salaries, although it is true that Negro teachers are paid a higher average, so we understand, in Florida. Nevertheless, that is because more of them have 4-year degrees. All of them have 4-year degrees, and we pay by degree of advancement in educational attainment rather than any other factor.

Senator COTTON. Thank you, Governor.

Governor BRYANT. Yes, sir.

Senator MONRONEY. Senator Thurmond.

Governor BRYANT. May I in one further response point out to you in Florida there is no educational or literacy test for voting.

Senator COTTON. Thank you. Is there any property test?

Governor BRYANT. No, sir.

Senator THURMOND. Governor Bryant, we feel honored in having you here, as such a distinguished executive of one of our sovereign States. And I wish to commend you for the excellent statement you have made.

Governor BRYANT. Thank you, Senator.

Senator THURMOND. The position you have taken here this morning has been my position throughout this hearing, and that is that the question of freedom is at stake.

I observe you state here that:

We have not been coerced, and I speculate that if we had been, the results would not have been so good.

It strikes me that that is evident that any facilities that are to be desegregated or handled by individuals in any way they please has to come from within. It should be on a voluntary basis. That is your position as I understand it?

Governor BRYANT. Yes, sir.

Senator THURMOND. In other words, you feel that for the man who owns a piece of property, it is not a property right that is involved, it is a human right to own that property and to use that property in the way the owner desires?

Governor BRYANT. Yes, sir.

Senator THURMOND. You have no objection in your State if a man wishes to integrate, as a great many do in their hotels, restaurants, and so forth, and you have no objection if they wish to segregate? They are the owners of the property. They are the ones to make that decision because they are the owners of the property. As I understand, that is your position.

Governor BRYANT. That is true.

Senator THURMOND. I have been impressed here with the way you have succinctly put this issue in these words:

This is a debate between those who seek to preserve freedom in the use of property by its owners and those who would appropriate a part of the bundle of rights which make up that ownership, without compensation to the public in the name of equality.

In other words, the question really involved here, as I have said previously, is one that hinges on freedom, and if we should pass the law that is being advocated here, then we would impinge upon and infringe upon freedom, do you not believe?

Governor BRYANT. I do, sir.

Senator THURMOND. There are many questions I could ask you, Governor, but I think you have so well stated your position it is unnecessary for me to propound any more questions.

Again I want to thank you for coming here and for the great contribution that you have made to this hearing.

Governor BRYANT. Thank you, Senator.

Senator MONROEY. Thank you, Senator Thurmond.

Senator MORTON.

Senator MORTON. No questions, Mr. Chairman.

Senator MONROEY. Senator Yarborough.

Senator YARBOROUGH. Governor Bryant, I congratulate you for the tone of your argument in making it based on constitutional and legal principles.

As a former judge, I can say you have presented it in a manner that would be worthy of a lawyer before a bench.

I express no opinion on this issue except I feel a little jealousy here in this statement that Florida is the fastest growing State in the Union. We are trying to compete with you in Texas on that score.

We realize the great growth of your Miami bid for the trade of Latin America for which we try to compete with Florida.

I think our problems in the two States are somewhat similar.

My State has not lost a great convention because of segregation. Most of the hotels in our larger cities are integrated at conventions and at banquets. I have spoken to integrated banquets in Texas for about 10 years. In many cities the banquet to which I spoke was the first time they had ever had an integrated banquet there.

And in our schools after the Supreme Court decision of 1954, four of our seven largest cities voluntarily desegregated their school systems without any lawsuit.

Many of these problems, that have resulted in some violence in some States, in Texas have been solved generally at the local level without either the Federal or the State Government intervening, and generally by a citizens' committee.

Generally, people to people is the way most of these disputes that have arisen have been resolved in Texas, although initially it was done by lawsuits.

The right to vote in the Democratic primaries was acquired in Texas by the Negroes by U.S. Supreme Court decision.

The right to place Negro students in State-supported universities was won in the Supreme Court.

The right to have integrated schools was won in the Supreme Court of the United States.

But the other type of rights, the other type of privileges were all worked out by negotiation between the two races in city after city.

Now, after the Supreme Court decision, some 200 school districts in Texas voluntarily desegregated, but the Legislature of Texas passed a law that no school district could desegregate without having first submitted the matter to a vote of the voters in that school district, and that temporarily virtually stopped the desegregation of school districts.

But some districts voted on it, and some voted to integrate. Some voted not to integrate.

Now that law has been knocked down, and a number of school districts are voluntarily integrating their schools without any court action.

Governor BRYANT. Senator, I certainly welcome, and I know Florida does, the competition of your great State, and I am sure that from it both of us profit.

Senator YARBOROUGH. I will say my State still has a poll tax, Governor, but I have joined with your distinguished senior Senator, Senator Holland, as cosponsor of the Federal amendment of which he is the principal sponsor, which has now been ratified by 36 of the required 48 States, to abolish the poll tax as a prerequisite to voting.

But, despite that poll tax, the percentage of Negroes in Texas who qualify to vote is very high—actually more by far than go to vote. But the number goes into six figures now, over 100,000, and tens of thousand vote in each election, enough Negroes to have more than made the difference in the last gubernatorial campaign and more than enough to make the difference in all of our fairly close campaigns, not merely the real close ones but the fairly close ones.

Governor BRYANT. This is certainly an American right and the American way.

Senator YARBOROUGH. I have no questions, Mr. Chairman.

Senator MONRONEY. Senator Engle.

Senator ENGLE. Governor, coming from California, I am intrigued by your statement that you are the fastest growing State in the Nation. I would like to suggest to you that we are not jealous about it because I think that we are getting people fast enough as it is.

So if you are outrunning us percentagewise, at least you are not outrunning us in total population.

Governor BRYANT. Your figures are quite correct.

Senator ENGLE. I want to compliment you too on the tone of your statement. I think it is an excellent statement of the position that you take. Although I disagree with it, I would say you have phrased it very well.

Governor BRYANT. Thank you, sir.

Senator ENGLE. Thank you, Mr. Chairman.

Senator MONRONEY. Senator Bartlett.

Senator BARTLETT. Thank you, Mr. Chairman.

Governor, I am always amazed for some reason unknown to me when I see a man on television, then observe him in the flesh, to note that he always looks the same in the one case as in the other. That is true as far as you are concerned. I saw you on TV a week ago yesterday, and here you are exactly the same.

Governor BRYANT. I am not sure whether that was a compliment or not, Senator, but I am sure it was intended so.

Senator BARTLETT. It was certainly intended to be such, and let me make the record clear on that point right now. I enjoyed seeing you and hearing you on TV, and I join with Senator Engle in saying that you made a very persuasive statement here for your position, and I think your answers to the many questions which have been asked were very well put.

Governor, you referred a while ago to two parallel lines. Have you ever figured out to your personal satisfaction what would happen if those two lines met?

Governor BRYANT. They would not be parallel.

Senator BARTLETT. On page 4 your assertion to the committee is that:

The debate in which we are now engaged is over the assertion of a new right: the right of nonowners of property to appropriate it from the owners.

Would you explain to me a bit more in detail what you mean by appropriation of property from the owners if this bill or anything like it was to become law?

Governor BRYANT. Yes, sir. I have a piece of property. You come along to buy it. I do not wish to sell it to you. That is an appropriation of the property, appropriation of my right of control over that property.

Property, or the right of property, is a bundle of rights really. I have the right to eat it if it is edible, to utilize it, to consume it, to throw it away, to sell it, to rent it, or to do anything that I like to do.

But this law would say one of those rights—not to sell it, to keep it, in other words, for myself or keep it for somebody else whom I wish to give, sell or lease it to—"we are taking away from you and we are appropriating it, giving that right to the public without compensation."

Senator BARTLETT. You do not think that right is abrogated in any degree at all by the fact that the person involved has set himself up in business to serve the public?

Governor BRYANT. I feel confident that as of now he has not intended and there is no law that does take that right from him. Now, there may be if you pass such a law. But as of today he has the right to sell or not to sell as he wishes to do.

Senator BARTLETT. Do you think his position is exactly the same as that of a man who owns a lot in downtown Miami and does not wish to sell it to anyone?

Governor BRYANT. Well, I do not want to subscribe to owning a lot in downtown Miami, because I would rather restrict it to the things that are included within S. 1732. There are certain things to which you are probably leading relative to zoning and so forth which have to do with property in downtown Miami, and there is a proposition which is distinct.

And, therefore, I say no, it is not exactly like that.

Senator BARTLETT. Are you saying to the committee that there is a vast difference between what this bill proposes and the right of the employer to hire or fire regardless of collective-bargaining procedures?

Governor BRYANT. There is a difference of degree in my judgment which is so great as to be a difference in kind.

Senator BARTLETT. I was just wondering, when you said that, if the people who own and operate the railroads would be in entire agreement with you, in light of other hearings the same committee is holding on another subject.

Governor BRYANT. Of course, I apologize for not being more familiar with that proposition, but obviously the operator of a railroad exercising a monopoly franchise, having been subsidized in its inception and frequently being subsidized today, is not on a par with the owner of a private restaurant.

Senator BARTLETT. Thank you, Governor.

That is all, Mr. Chairman.

Senator MONRONEY. Senator Hart.

Senator HART. Governor, I apologize for having arrived late, and I was assured by Senator Cannon, who had to leave to attend another meeting but who had heard your statement, that it was excellent.

Governor BRYANT. Thank you, Senator.

Senator HART. I have heard other members say so.

I have had a chance to read some of it, and, on a seemingly irrelevant note, you comment on the warm reception that Florida accorded the Cuban refugees. This is a subject that I have attempted to study thoroughly and welcome an opportunity publicly to tell the people of Florida and you that the response by Florida to that flood of refugees in truth does great credit to America.

While most people do not know anything about it, they owe you some thanks.

Governor BRYANT. Senator, may I express the gratitude of the people of Florida to the successive Governors of Michigan and to the people of Michigan for their welcome in the instances of relocation of Cuban refugees.

Senator HART. Thank you very much, Governor.

Incidentally, you said that 71 percent of the school districts of Florida were not operating separate schools. You did not say that, but I am trying to find out whether that is what you meant or not.

Governor BRYANT. What I said—what I intended to say—was that 71 percent of the schoolchildren of Florida, according to the perhaps incomplete but best figures that I can get, are attending school districts which are integrated.

Senator HART. The remaining districts would be then segregated?

Governor BRYANT. That is true. In no one of those districts, however, has there been an application by any child to go to any school other than that to which he was assigned.

Senator HART. What if one of the Cuban children relocated in north Florida applied for a white school? What would happen?

Governor BRYANT. They do all the time. They go.

Senator HART. They are admitted?

Governor BRYANT. Oh, yes. There is no problem at all.

Senator HART. What would happen then if an American Negro child sought admission?

Governor BRYANT. Well, they have. Everyone that has, up until this time—in none of the districts where there is not integrated schooling has there been any denial. Whether or not there would be on the occasion of application would depend upon the individual district, of course, and would depend on factors that I do not know.

Maybe all of them would be admitted. Maybe none of them would be admitted. I just do not know.

I will tell you, however, that the experience of Florida is that we are handling this problem without violence and without, I think, difficulty.

Senator HART. Governor, would it be fair to ask you whether you feel that if a district which in fact has admitted a Cuban refugee child was presented with a petition by an American Negro child for admission that that American child should be admitted?

Governor BRYANT. Well, certainly.

Senator HART. Thank you.

Governor BRYANT. If he is otherwise qualified.

Senator HART. Thank you very much.

Senator MONRONEY. Senator Scott.

Senator SCOTT. I have no questions. Thank you, Governor.

Senator MONRONEY. In recapping your statement, Governor Bryant, you take the position contrary to many witnesses who have appeared to oppose the bill likewise, but you take the position it would be just as illegal for the State to pass an antidiscrimination law or the county or the municipality as for the Federal Government to do so?

Governor BRYANT. I am not much of a lawyer, Senator, but if I can read the recent cases my answer would have to be a positive "Yes."

Senator MONRONEY. Thank you very much.

Senator Holland, did you have a statement you wished to make other than the introduction?

Senator HOLLAND. No.

Off the record.

(Remarks off the record.)

Senator MONRONEY. Thank you for your appearance here.

Senator THURMOND, did you have another question?

Senator THURMOND. On the last statement, I was glad to hear you make that statement that you do not feel that there is a constitutional basis for the passage of a law not only from the Federal standpoint but from the State or even a local standpoint, that these are rights inherent in the individual and they cannot be abrogated whether there are attempts to do so on a local basis, a State basis, or a Federal basis.

The way you have approached it in Florida and some other places where the approach has been made on a voluntary basis would seem to be the only sound constitutional basis on which one could approach it.

Governor BRYANT. Thank you, sir.

Senator THURMOND. Thank you very much.

Governor BRYANT. Thank you, gentlemen.

Senator MONROBY. The next witness is Mr. I. Beverly Lake, an attorney of Raleigh, N.C.

Mr. Lake, we appreciate your responding to the invitation of Senator Thurmond who I understand has invited you to appear here as a witness. We welcome the chance to hear your testimony, sir.

STATEMENT OF I. BEVERLY LAKE, ATTORNEY, RALEIGH, N.C.

Mr. LAKE. Thank you, Mr. Chairman.

My name is Beverly Lake. I am engaged in the general practice of law in Raleigh, N.C. I am appearing before the committee on the invitation of Senator Thurmond. I am testifying in opposition to Senate bill 1732.

By way of background, let me say all of my life has been spent in North Carolina except while in law school and in Government service. Following my graduation from the Harvard Law School in 1929, I practiced law in Raleigh, N.C., for 3 years. From 1932 to 1951 I was professor of law at Wake Forest College where, among other things, I taught constitutional law and public utilities. In 1939-40, while on leave of absence, I did a year of graduate law study at Columbia University where I received the degree of doctor of the science of law upon the publication of a book entitled "Discrimination by Railroads and Other Public Utilities."

During World War II, I directed all the rationing programs of the Office of Price Administration in the eastern 54 counties of North Carolina. During the Korean war I was on the staff of the General Counsel of the National Production Authority here in Washington. From 1951 to 1955 I was assistant attorney general of North Carolina, and since that time I have been engaged in the general practice of law in Raleigh.

I am a member of the bar of the State of North Carolina and of the bar of the Supreme Court of the United States.

In 1960 I was a candidate for the Democratic nomination for Governor of North Carolina. In my campaign I reflected the views I am now expressing here today. I received 276,000 votes in the Democratic primary, but, since that was not quite enough, I do not speak here as one in any official capacity nor do I represent any organization. However, I am confident that the overwhelming majority of North Carolinians, Democrats and Republicans, share the views that I am expressing, that this bill, if enacted, would be an intolerable injustice and a gross violation of the Bill of Rights; that it would fan racial differences to the white heat of hatred and would change the "image" of the Federal Government, in the eyes of Americans, from that of a beloved and respected protector of individual liberty into that of a feared and despised police-state monster.

I have considered this bill carefully from three points of view: (1) That of a practicing lawyer called upon to advise a client, (2) that of a firm believer in the kind of government established by the Constitution, and (3) one who is concerned lest our people's love of America be dimmed by life under a Federal tyranny which would make a mockery of the name "Department of Justice."

In express words this bill applies to the corner drugstore, any restaurant, lunch counter, soda fountain, filling station, shop, store, theater, or lodging house for transients.

But it does not stop there. It extends to any other establishment where any service of any nature is offered "to a substantial degree to interstate travelers," or "if a substantial portion of any goods" offered by it for sale has at any time moved in interstate commerce. The word "substantial" is left undefined. It will mean whatever the Attorney General and some judge say it means. No one can know in advance what that will be.

But the bill does not stop there. It also applies to any business, of whatsoever nature or size, located upon premises leased "from the persons or business entities which own, operate, or control" an establishment of one of the types specifically named. A bank would seem to be an establishment in which services are "provided to a substantial degree to interstate travelers. An insurance company which offers for sale policies printed in another State would seem to be an establishment covered by this bill. If so, every accountant, lawyer, doctor, or real estate dealer who rents an office in the building owned by the bank or insurance company is within the reach of this bill. So would be the barbershop in the basement or the beauty parlor on the mezzanine floor, but of course all barbershops and beauty parlors are covered anyway since a "substantial part" of some hair tonic or lotion sold by each of them has, at some time, moved in interstate commerce. So, when my clients ask if this applies to their various businesses, large and small, I must reply: "Ask not for whom the bell tolls. It tolls for thee".

This bill forbids any proprietor of any store or any service business, large or small, to refuse to serve a member of another race regardless of what the proprietor believes will happen to his business if he serves the person in question. But it does not stop there. It provides:

No person . . . shall . . . intimidate, threaten, or coerce any person with a purpose of interfering with any right or privilege secured by section 3.

Does this mean that persons who have been patrons of a restaurant cannot say to the proprietor of that restaurant, "If you serve members of another race, I shall not eat here any more"?

Does this mean a banker refuses at his peril to lend money to someone who wants to open an integrated dine-and-dance spot, when the banker knows that he cannot operate profitably in that community?

The bill does not stop there. It seems to forbid a police officer to arrest, or the judge of a court to punish or even try a member of one race who with violence forces his way into a restaurant whose owner has elected to serve only the members of another race.

Now, let us go a step further. Suppose a police officer is called to a beauty parlor and is asked by the proprietor to evict a person whom the proprietor says has been guilty of vulgar and disorderly conduct, but the person in question says he or she is being denied service because of race. What shall the officer do; shall he arrest the offender at his peril, or shall he check the inventory of the beauty shop to see if a substantial part of any of its goods has been moved in interstate commerce, or will he refuse to interfere and leave the proprietor to get rid of the offensive person by her own devices, if she can? Now, you know what he will do. He will say there is nothing he can do about it.

To pass this bill, Senator, is to assume for yourselves a fearful responsibility for human life, for if the people of America are denied the right of recourse to their own police and their courts for the protection of their persons and properties they will resort to their constitutional right to keep and bear arms and, when tempers flare, those arms will be used.

This bill does not stop there. It forbids any person to "incite, aid, or abet any person" to do any of the things forbidden. Is a lawyer in violation of this provision when he advises a restaurant proprietor that in his opinion this bill violates the due process clause of the fifth amendment and that the proprietor should refuse to serve one whose presence in his restaurant makes it unattractive to others? Is it a violation of this provision for your wife to say to her hairdresser, "I hope you will not serve Negroes in your shop for if you do I shall go elsewhere"?

Section 5 provides that though the proprietor of a business has never violated this law or any other law, if there is reasonable cause to believe that he is about to do anything forbidden by the vague, scatter-gun prohibitions of this bill, the person considering himself aggrieved, or the Attorney General, may hail the person suspected of being about to act like a freeman into a Federal court, without limitation in this bill as to venue, and there he may be enjoined, and subjected to the hazard of imprisonment in the court's discretion for contempt if he violates such injunction. If the complainant prevails, he is allowed to recover his attorney's fee as part of the costs.

But what if the defendant prevails? Why, he pays his own lawyer, of course.

When can the Attorney General throw the full legal resources of the United States against the beautician in Raleigh, or the filling station in Chicago, or the operator of a hotdog stand at Coney Island? Why, he can do that whenever he receives a written complaint—not even a sworn statement is necessary; just a post card will do—and in the Attorney General's uncontrolled judgment the person aggrieved is unable to initiate proceedings and the purposes of this bill will be furthered by the filing of an action.

What else can the Attorney General do to a theater, hotel, or department store against whom someone has filed a post card complaint? The bill provides that, without even going to any court at all, the Attorney General can—

utilize the services of any Federal agency or instrumentality which may be available . . . if in his judgment such procedures are likely to be effective.

FBI investigations, Internal Revenue examinations; audits of books, Labor Department investigations and all the other harassments available to a malicious mind are placed at the beck and call of the Attorney General to compel capitulation without even a day in court for the American citizen against whom an unsworn post card complaint has been filed.

On, and on we could go in cataloging and mapping the avenues to tyranny which this bill opens to the use of a ruthless Attorney General, but time marches on and I want to turn briefly to some constitutional questions.

Some years ago, a President asked the Congress to enact certain legislation regardless of doubts as to its constitutionality, however

reasonable. May I, just a plain American citizen, remind you, Senators, that you are the first bulwark which the Constitution has erected to protect my individual freedoms against the tyranny of my Government. And I ask you to give to me, and my fellow countrymen of the North, the West, the East, and the South that protection regardless of whatever hope you may have in the Supreme Court of the United States, even if reasonable.

This bill would violate rights given to me by two provisions of the Bill of Rights, the fifth and the tenth amendments. I understand that the present Attorney General in his testimony before you, or perhaps one of the other committees, belittled those of us who invoke the tenth amendment in opposition to this proposed legislation. The doctrine that the Congress can make no valid law save upon a subject committed to it by the Constitution is not an outdated Civil War battlecry. The 10th amendment is a protection to me, a plain, ordinary American individual against an act by Congress which would put the whip of tyranny into the hands of an Attorney General of the United States.

And in invoking it before you, I do not speak as a southerner but as an American, speaking on behalf of the owner of a restaurant in Harvard Square, the merchant in the Chicago Loop, the barber in Santa Fe just as truly as I speak on behalf of my client, who has opened a new bowling alley in Raleigh. I do not call upon that part of the fifth amendment behind which the enemies of our country take refuge when questioned about their activities. I rely on the provision that no person shall be deprived of liberty or property without due process of law.

This bill purports to rest upon legislative powers granted to Congress by the 14th amendment and by the commerce clause. Even if it were a regulation of commerce among the States or if it were designed to carry out the 14th amendment, it would still be beyond the power of the Congress because it is an arbitrary interference with human liberty and, therefore, it is a violation of the due process clause of the fifth amendment. But it is not within the legislative powers granted to Congress by the commerce clause or by the 14th amendment and, for that reason, it violates the 10th amendment.

Now, of course, you Senators are aware, I know, of the decision of the Supreme Court in the United States in the *Civil Rights Cases*, reported in 109 U.S. 3, Supreme Court Reports, decided in 1883, 80 years ago. Evidently, the Attorney General has not read that decision for, if he knew of it, surely he would not ask you now to enact a bill which is almost an exact copy of the law there which was then held to violate the rights of American citizens under the Constitution of our country. In that case Congress had enacted a law declaring, as this bill does, that all citizens were entitled to the same accommodations and privileges in hotels and places of amusement, and forbidding any person to deny such privilege to another because of race, color, or previous condition of servitude. The proponents of that old legislative law said, just as the proponents of the present bill say, that section 5 of the 14th amendment gave Congress authority to enact it. But this is what the Supreme Court of the United States said about it 80 years ago:

The last section of the amendment invests Congress with power to enforce it by appropriate legislation. To enforce what? To adopt appropriate legis-

lation for correcting the effects of such prohibited State laws and State acts, and thus to render them effectually null, void, and innocuous. This is the legislative power conferred upon Congress, and this is the whole of it * * *. It does not authorize Congress to create a code of municipal law for the regulation of private rights; * * * Civil rights, such as are guaranteed by the Constitution against State aggression, cannot be impaired by the wrongful acts of individuals, unsupported by State authority in the shape of laws, customs, or judicial or executive proceedings.

And, of course, if civil rights cannot be violated by wrongful individual action, they cannot be violated by rightful individual action.

Senate bill 1732 does not depend for its application upon the existence of any State law forbidding a person to seek service in a restaurant, store, beauty parlor, theater, or filling station. It undertakes to make it unlawful for one individual to say to another "I will not serve you."

There is no law in North Carolina, so far as I know—and I will say from past experience I could have overlooked some law of North Carolina—but I do not know of any law of North Carolina and I am quite sure there is none in any other State, to the best of my knowledge, which forbids a theater to admit both white and Negro patrons, or a restaurant, hotel, or store to serve members of all races together. There should not be any such law. That is a decision which ought to be left to the owner of the business, for it is his money which will be lost if his establishment is unattractive to potential customers. The State's only function in that situation is to provide him with the same police and fire protection and other services it would give him if he had reached just exactly the opposite conclusion. A restaurant which chooses to serve customers of the white and Negro races together should have police protection against invasion by people who object to that policy. A restaurant which decides to serve Negroes only or white people only should have the same police protection.

The commerce clause affords this bill no support. A theater in Raleigh is not engaged in interstate commerce by reason of the fact that the film it projects on its screen came from another State, or that the girls in the chorus sang the night before in New York. A restaurant in New York is not engaged in interstate commerce because it serves a steak which came from Texas by way of Chicago. And a shampoo does not become an interstate operation merely because the soap came across a State line.

I know the Supreme Court has held that Congress may prohibit conduct which obstructs the free flow of commerce from State to State, and I am aware that the proponents of this bill seek to hang it on that peg, but you know and I know that is an obvious subterfuge.

Is the flow of tourist travel, for which this bill professes such concern really dammed up because a barbershop in Raleigh cuts the hair of white men only? I never saw a filling station which refused to sell gas to anybody who had the money. Now, is the flow of interstate commerce really obstructed because it is channeled through four restrooms instead of two?

Is this bill really going to increase the number of Kansas City steaks eaten in North Carolina, or the number of North Carolina chickens eaten in Boston, or the quantity of Minnesota flour consumed in Atlanta? The backbone of a restaurant business in North Carolina cities and towns, and I believe in most if not all other places, is

not the interstate traveler but the local residents. If the proprietor operates a restaurant which is not attractive to the people of his own community he is going out of business soon whether the Attorney General of the United States likes it or not. If the restaurant goes out of business the flow of interstate travelers is hampered, and the flow of interstate groceries to that point stops altogether. Neither curling lotion nor hair straightener will flow interstate to a beauty parlor which closes down because the local ladies object to sitting in a chair next to one occupied by a member of another race, and there isn't a thing that the Attorney General can do about that.

Now, why do the proponents of this bill suppose a man who is in business to make a profit limits his service to people of a certain race? Is it not obvious that he, knowing his community, believes that he will lose more customers than he will gain if he integrates his business? It is wholly beside the point to debate the rightness or wrongness of the attitude of these other customers. The fact remains that the owner of that business is going broke if his establishment is unattractive to the people of his community. He knows people of his community. The Attorney General of the United States does not. He has his own money invested in that business. The Attorney General has his investments elsewhere.

This bill will not increase the flow of interstate commerce, and it is not intended to do so. That is simply a false pretense designed to hoodwink the Congress and the courts into calling this bill a regulation of commerce between the States. It is nothing in the world but an arbitrary, ruthless attempt to deprive the people of America of the fundamental liberty of choosing for themselves, at their own risk, for their own personal reasons, the people with whom they will or will not do business. And as such, it violates the due process clause of the fifth amendment.

We hear a great deal these days about the image of America in the Congo, Laos, India, and so on. I doubt that very many of the residents of the Congo have a very clear image of the coffee shop in the Sir Walter Hotel in Raleigh. I fear that there is very little being done to show the people of Indonesia or Ghana or Yugoslavia the true picture of an America in which a white man or black man is free to open any business that he wants to engage in with certain minor exceptions, whether it is a luxury restaurant with snowy linens on the tables, loaded with delicacies, or a greasy spoon cafe serving frankfurters and beans, and he is free to say to you, Senators, to me, to the Attorney General of the United States, or even to a member of the board of directors of the NAACP, "Bud, I am not going to serve you just because I don't want to, and if you don't get out of here I'm going to call the cop and have you put in jail."

In this world, groaning as it is under governmental regulation and cruelty, the image of America which we should project is the true picture of a land where just an ordinary man or woman has the freedom to own a business and to manage it, freedom to work, freedom to make and to keep the profits of his or her ingenuity and labor, where, as to most things, "I don't want to" is a sufficient answer even to the demand of the Attorney General of the United States.

Senators, I am not so much concerned with what the passage of this bill will do to the image of our country as seen in Korea or Italy

or Egypt. I am concerned with what the passage of this bill and its enforcement will do to the image of America in the eyes of Americans. The people of the South, the North, the East, and the West love this country. They have fought for it. They have given their sons and their husbands for it. And we all join together in singing of a "Sweet land of liberty" which is "beautiful for spacious skies, for amber waves of grain, for purple mountain majesties above the fruited plain" and we close that song with the prayer to God, the Author of liberty, that He may "crown her good with brotherhood" not crown her good with uniformity or conformity or equality, not crown her good with integrated schools, or restaurants, or barber-shops or restrooms, but crown her good with friendliness.

If you pass this law and the Attorney General seeks to enforce it, you will not bring into focus that image of friendliness between free people, of different races, and other different characteristics, you will create frictions which will move on to hatred, and the image of the Federal Government, which we have never had before, will be transformed from that of a beloved and trusted guardian of individual liberty into the image of a feared and loathsome monster tyrant.

Thank you, Mr. Chairman.

Senator MONRONEY. Thank you, Mr. Lake, for appearing before us.

On page 1 you mention the authorship of a book entitled "Discrimination by Railroads and Other Public Utilities" which you had completed in the years 1939 and 1940.

Mr. LAKE. Yes, sir.

Senator MONRONEY. Was this a book dealing with the problem of discrimination or bias racially?

Mr. LAKE. No, sir; not specifically. It dealt with discrimination in rates and services generally, not on any racial basis.

Senator MONRONEY. What was the conclusion on the railroads and other public utilities in discrimination?

Mr. LAKE. I am sorry; I did not understand.

Senator MONRONEY. What was your conclusion in the book as to the railroads and other public utilities in discrimination?

Mr. LAKE. Well, I was dealing there with the provisions of the Interstate Commerce Act sections 3 and 4, if I am correct in my recollection at the moment, that the railroads and other utilities—or railroads in the case of the Interstate Commerce Act—may not discriminate unreasonably in rates. It was primarily a matter of economic discrimination.

Senator MONRONEY. Economics, not with individuals or segregation?

Mr. LAKE. No, it did not deal with that. Excuse me. There may be a paragraph here or there through the book about it, but that was not the gist of it.

Senator MONRONEY. But this is mostly on rate structures—

Mr. LAKE. Yes.

Senator MONRONEY (continuing). And things of that kind? And commodities?

Mr. LAKE. That is right.

Senator MONRONEY. With regard to the rights of individuals to deny services to those he wants to, you do not carry that quite perhaps so far, do you; that an operator serving a public transportation util-

ity in interstate commerce would have that same right even though it was in North Carolina or Oklahoma or Florida?

Mr. LAKE. Oh, no; of course not, Senator. That historically, long even before our country was established, as you know, has been recognized as part of the law, that a common carrier could not discriminate in persons he wished to serve.

Senator MONRONEY. Common carrier in interstate commerce, buses or airlines—

Mr. LAKE. Interstate or not that would be true.

Senator MONRONEY. It would apply to ground stations where comfort facilities, food, and lodging would be available to those traveling in interstate if it were located in terminal quarters of the transportation facilities? Is that correct?

Mr. LAKE. Oh, yes. Now, of course, there might be differences of opinion as to what constituted unreasonable discrimination, but there could be no discrimination.

Senator MONRONEY. In other words, some might follow the old Supreme Court decision that separate but equal facilities were not discriminatory either?

Mr. LAKE. Right.

Senator MONRONEY. Therefore, he would not be discriminating in the South if he had a white waiting room and a colored waiting room or a white restaurant and a colored restaurant, and so on?

Mr. LAKE. As I say, there might be differences of opinion about that.

Senator MONRONEY. But you do not question the Federal Government's right to insist on at least equal treatment even though they may disagree on the manner in which the equal treatment would be provided?

Mr. LAKE. As to interstate carriers?

Senator MONRONEY. Yes, appropriately related to interstate commerce.

Mr. LAKE. Certainly not so far as interstate carriers are concerned; no.

Senator MONRONEY. Well, where would you make this cutoff line? For instance, would a chain of motels or a chain of restaurants operating largely on interstate highways be under that proper application of the Interstate Commerce Act the same as the restaurants or facilities in a depot or in a bus terminal?

Mr. LAKE. Well, I do not think that the fact that a particular restaurant is operated by a chain would have any bearing on this. The service of the restaurant would not become interstate commerce in my opinion merely because the same owner operated restaurants in other States.

Senator MONRONEY. Let's take an individual restaurant then, having maybe the only restaurant facility in a hundred miles. Would it be interstate commerce if it were located on an interstate highway?

Mr. LAKE. I should think not.

Senator MONRONEY. Do you have any criteria to go beyond the rule that it would properly be interstate commerce only if it were connected with a terminal or a close connection with transportation of people through buslines or other types of transportation utilities?

Mr. LAKE. Well, I am not convinced in my own mind at least that the mere fact that a restaurant is operated adjoining a bus station would make that restaurant in interstate commerce.

The restaurant is, I assume, a separate business from the carrier.

Now, if the carrier is operating the restaurant that would perhaps raise a different situation.

But if I operate a restaurant next to a bus station or if I rent perhaps a room in a bus station and it is my restaurant, the bus company has nothing to do with the operation of the restaurant, I doubt very seriously that it would be proper to say that I am engaged in interstate commerce.

Senator MONRONEY. That, of course, would not hold true in an airport where none of the airlines would operate the restaurant in the airport; the restaurant facility in an airport certainly would have to be available to all races or people would be denied their service.

Mr. LAKE. I am inclined to think that is what the court would hold, yes, sir.

Senator MONRONEY. And you agree with that, do you? I am trying to get what you agree with.

Mr. LAKE. Well, as I say, I agree that that is what the court would hold. I do not know if I had it to do all over again—

Senator MONRONEY. You say denial of freedom—

Mr. LAKE. Yes, sir.

Senator MONRONEY. And I was just wondering. The man who operates that restaurant then might be denied his freedom, but if he served a public necessity for interstate commerce you admit the court would approve it, and I just wondered if you would approve it in principle.

Mr. LAKE. You mean would I approve it as a matter of law?

Senator MONRONEY. Do you agree? Well, do you agree that it is a proper application of interstate commerce?

Mr. LAKE. I agree, Senator, of course, that any person who is traveling by air or train or otherwise ought to have access to restaurant facilities, yes, sir. There is no question about that.

Now, as to what would constitute discrimination, as I say, there might be differences of opinion about that. But certainly we all recognize that a traveler away from home must eat. He must sleep. And it is certainly desirable—let's put it that way—in interstate commerce for the encouragement of interstate commerce that those facilities be afforded.

Now, whether it is desirable for the Government of the United States to say to me that I have got to furnish them is another matter. I do not think that that is proper for the United States.

I think that the remedy of this perhaps might be to encourage the construction of restaurants, hotels, motels, and so on, which would supply those facilities.

But the man who puts his money in the business, which is his own money, not the Government's money, if he puts his money in the business he ought to be the one to decide to whom he will offer his service.

Senator MONRONEY. You see, we reach this end though, Mr. Lake, that there are more people traveling intercity, and I presume that would reflect on interstate, by automobile.

Mr. LAKE. Yes.

Senator MONRONEY. Private car. More than travel by all the railroads, all the buslines and all the airlines. Statistics will bear that out.

Mr. LAKE. I am sure that is correct.

Senator MONRONEY. Private car tops all three combined. But these people have no way then of being served a meal in a restaurant. They have no way of having a night's rest. We have had testimony before this committee that sometimes it is 150 to 200 miles between stops where colored people could even be permitted to stop or to be served in any way.

Now, this does become a problem in interstate commerce.

You suggest that maybe people should build desegregated facilities if they wished to do so.

Mr. LAKE. I believe I said they should be encouraged to build establishments which would take care of these travelers.

Senator MONRONEY. Desegregated or segregated, either way! Would you favor Government help in that regard to try to encourage it?

Mr. LAKE. Well, I doubt that it is necessary. I do not know whether it would be necessary or not.

Senator MONRONEY. But if it was not necessary, would not free enterprise have been in that field a long time ago?

Mr. LAKE. Then it would seem to me if that is correct that there is very little demand for the service that you speak of.

Now, I find as I travel over the highways of North Carolina and as I traveled up here by private car that a very large number of the automobiles on the highway were occupied by Negro people. Many of them had licenses from other States. So it has been my observation that the existing conditions, whatever they may be, do not prevent the free travel of Negro people in interstate travel by private automobiles. It just is not the situation.

Now, where they eat I do not know, but they evidently eat somewhere. But whether they do or do not, it is still my opinion, Senator, that you should not go to the operator of a wayside restaurant in the State of Virginia or the State of Montana or wherever we might be and say, "You must go into an entirely different type of business from that which you engage in. Whether you go broke or not is of no consequence to the Government."

Senator MONRONEY. Well, the bill though does not say you have to engage in a different type of business. As a matter of fact, it says—

Mr. LAKE. Well—

Senator MONRONEY. You must not show discrimination by refusing service not for any reason in the world excepting you cannot refuse service because of race or color.

Mr. LAKE. But if the proprietor is of the opinion—he may be wrong; I leave that to him because I think he is the man who ought to decide—if the proprietor is of the opinion that by opening his restaurant to white people he thereby alienates his potential customers to such a degree that he may endanger his ability to stay in business, I do not think that I have any right to insist that he serve me, and I do not think that the Government ought to make him do it.

The same thing would be true of one who believes that he would jeopardize his economic life by opening his restaurant to a member of the colored race. I agree with you that we should do whatever we can to provide adequate, comfortable restaurants for our Negro people if they are not already available. I know there are many restaurants which do serve them.

Senator MONRONEY. Since you raised a constitutional question, which I share to a degree, on the expansion of the commerce clause to take in every small business that leads to perhaps being a precedent for greater and greater Government control of local affairs and expansion of Federal enforcement down to matters that intimately affect the daily lives of all business people, I wonder if you approve of efforts—I mean the right of efforts—in being strictly within the powers of the States or the counties or the municipalities to pass rules or laws or ordinances against segregated facilities.

Mr. LAKE. No, sir. I think that the same—well, not necessarily the same, because you do not have any commerce clause problem there—but I think that the Legislature of North Carolina has no more authority to adopt such a bill as this than would the Congress. Because if the Legislature of North Carolina undertook to do this it would violate the due process of the 14th amendment.

And, of course, something we are not here concerned with, it would violate the constitution of North Carolina.

Senator MONRONEY. Do you feel that the 30 States and 2 others that have in one form or another taken action to end segregation in public facilities and accommodations are operating beyond the scope of law or beyond the scope of what the North Carolina law would have defined?

Mr. LAKE. Well, of course, answering that as I am, I am doing it without reading their laws.

Senator MONRONEY. Yes.

Mr. LAKE. But if their laws impose the same requirements as this bill does, I would think that those laws would violate the 14th amendment; yes, sir.

Senator MONRONEY. Now, as an experienced attorney in North Carolina, have you ever had a North Carolina law that required segregation or have you had local ordinances that required segregation to your knowledge?

Mr. LAKE. You are speaking now of restaurants, stores, and so on? Senator MONRONEY. Public facilities; yes. Lodging.

Mr. LAKE. Not to my knowledge, Senator. Of course, going way, way back it is possible there may have been some.

Senator MONRONEY. Not in recent years?

Mr. LAKE. Not in recent years. I am quite confident of that.

Senator MONRONEY. That is State, or county, or municipal?

Mr. LAKE. Now, of course, I cannot obviously speak of all municipal ordinances.

Senator MONRONEY. As a distinguished teacher of law you probably would have known about it.

Mr. LAKE. No, sir; there are a great many North Carolina laws I do not know about. But I am quite sure there is not and has not been, I would say, certainly since the turn of the century, any North Carolina law so providing.

Now, there may be in some municipality in North Carolina some municipal ordinance, but I have not in all of these recent developments on this matter been aware of any such law.

Senator MONRONEY. Would it be possible in your estimation—

Mr. LAKE. May I just add this further: I think that if there is such an ordinance in any municipality in North Carolina it would not be a valid law under our State constitution.

Senator Monroney. As a distinguished lawyer and student of the law, and a teacher of constitutional law, do you feel that if the administration strongly wishes to have such effective power that they should go about it through asking for a constitutional amendment reflecting or perfecting or changing the provisions of the 14th amendment which had been set aside by the Supreme Court as it reflects on accommodations?

Mr. LAKE. Well, I think, sir, that that is the only way. Not necessarily amending that provision. I do not mean to be as narrow as that.

Senator MONRONEY. Yes; but you would advocate a constitutional amendment?

Mr. LAKE. But I think a constitutional amendment is the only way that Congress can be authorized to enact a law of this kind.

Senator MONRONEY. In other words, there is no other power within the Constitution presently to meet what you believe to be the legal basis for legislation of this kind?

Mr. LAKE. No, sir; I do not think there is. And if you found another clause on which, nothing else appearing, you might hang this law, I think then that it would still be a violation of the due process clause, which I understand to be an overall limitation on the authority of Congress to enact legislation in the fields which are specifically permitted to it.

Senator MONRONEY. There would be no question, however, about the legality of a constitutional amendment that was submitted properly and voted on properly by the required number of States?

Mr. LAKE. Well, I have always considered it to be axiomatic that if the people amend the Constitution they can put anything they want to in it.

Senator MONRONEY. The courts would have to act on that?

Mr. LAKE. Yes; well, I would say, of course, the courts would have to interpret it, but I do not believe if the amendment is properly passed that the court would have any authority to take it out of the Constitution.

I am not certain any more about that, but I don't believe it would have.

Senator MONRONEY. Thank you very much.

Senator COTTON.

Senator COTTON. No questions. Thank you, Mr. Chairman.

Senator MONRONEY. Senator THURMOND.

Senator THURMOND. Thank you, Mr. Chairman.

Dr. Lake I observe you graduated from Harvard Law School.

Mr. LAKE. Yes, sir.

Senator THURMOND. So what you say here ought to have some influence with the present administration, don't you think?

Mr. LAKE. I am not certain about that. But I did go to that school. That was before the present administration went there, so maybe my views would not have much effect.

Senator THURMOND. I also observe you taught law at Wake Forest College—

Mr. LAKE. Yes, sir.

Senator THURMOND (continuing). For 10 years.

Mr. LAKE. Yes, sir.

Senator THURMOND. You taught constitutional law there, sir?

Mr. LAKE. Yes, sir.

Senator THURMOND. Then later you did graduate work and obtained a doctor's degree in law at Columbia.

Mr. LAKE. Yes, sir.

Senator THURMOND. Then you worked with the Government I believe in the Office of Price Administration and—

Mr. LAKE. National Production Authority during the Korean war.

Senator THURMOND. Yes.

Mr. LAKE. Price Administration during World War II.

Senator THURMOND. And for 4 years you served as an assistant attorney general of the State of North Carolina.

Mr. LAKE. Yes, sir.

Senator THURMOND. So you have had a great experience as well as splendid training in the legal field.

I wish to ask you a few questions here.

I observe you stated the word "substantial" is left undefined.

Mr. LAKE. Yes, sir.

Senator THURMOND. And that it will mean whatever the Attorney General and some judge says it means. "Substantial" to one judge might mean an altogether different meaning from "substantial" to another. Is that not true?

Mr. LAKE. I am sure that that would be true; yes, sir.

Senator THURMOND. And when the Attorney General testified here we tried to pin him down on what "substantial" meant, and we used a little barbershop in Fort Mill, S.C., as an example. I guess you know where that is.

Mr. LAKE. Yes.

Senator THURMOND. Between Charlotte and Rock Hill.

Mr. LAKE. Yes, sir.

Senator THURMOND. And he would not say exactly just how many barbers or how many customers would finally constitute "substantial" and would come under the bill.

There seemed to be some uncertainty. As a matter of fact, is there not great uncertainty in this bill as to just what "substantial" means?

Mr. LAKE. Well, all I can say, Senator, is that I have not the slightest idea what it means.

Senator THURMOND. Dr. Lake, as a matter of fact, the Supreme Court, as you state here, in 1888 held a bill similar to this, practically identical to this, unconstitutional.

Mr. LAKE. Yes, sir.

Senator THURMOND. And that that decision has never been overruled.

Mr. LAKE. I believe that bill did not go as far as this one does. That bill, as I recall it, did not apply to barbershops and grocery stores and things of that sort.

Senator THURMOND. In fact, this bill goes even further than that bill went, does it not?

Mr. LAKE. That is my understanding.

Senator THURMOND. And the Supreme Court declared that bill unconstitutional. If it follows stare decisis, the Supreme Court would have to declare this bill unconstitutional, would it not?

Mr. LAKE. Well, it would certainly seem so to me.

Senator THURMOND. Of course, no one can tell nowadays what the present Supreme Court will do.

I believe you quoted from that decision on page 9, did you not?

Mr. LAKE. Yes.

Senator THURMOND. I was impressed with this statement taken from that decision:

It does not authorize Congress to create a code of municipal law for the regulation of private rights; * * * Civil rights, such are guaranteed by the Constitution against State aggression, cannot be impaired by the wrongful acts of individuals, unsupported by State authority in the shape of laws, customs, or judicial or executive proceedings.

It would seem that that is a very clear, succinct statement that is applicable here in the consideration of this proposal.

Mr. LAKE. It seems so to me, Senator.

Senator THURMOND. On page 10 of your statement I observe you make this statement:

A restaurant which chooses to serve customers of the white and Negro race together should have police protection against invasion by people who object to that policy. A restaurant which decides to serve Negroes only or white people only should have the same police protection.

As I understand it, you are taking the position here very similar to the position taken by the Governor of Florida, that if a restaurant owner wishes to serve on an integrated basis he ought to have the right to do so. If he wishes to serve on a segregated basis, he ought to have the right to do so. And both ought to have police protection from the State.

Mr. LAKE. Yes, sir; I take that position.

Senator THURMOND. In other words, you are not trying to tell any restaurant, any hotel owner, any motel owner, any barber shop operator, beauty shop operator, or other business just how they should conduct their business but that should be left to them in the manner that they think best to promote their own business?

Mr. LAKE. Yes, that is my position.

Senator THURMOND. Now, do you not feel that this bill called the public accommodations bill seems to lend credence to the fact that there may be a public accommodation here? A man does not run his business necessarily to accommodate the public so much as he does to make his living, does he? And would not a more appropriate term for this be "The Interference With the Operation of Private Business"?

Mr. LAKE. I think definitely that it would be. I think that that is a fallacy running through this bill. For example, your catchline here on page 5 of the bill is "the right to nondiscrimination in places of public accommodation."

I think they are private businesses. There is the difference, for example, between the barber shop or the grocery store and the common carrier. Historically, as we all know, by definition, the common carrier is one who holds himself out as willing to serve anybody, whoever applies.

Now, I do not understand that that is what the owner of a barber shop or a grocery store does when he opens his store and unlocks his door. He is the owner of a private business, and he can select or not select his patrons on any basis he wishes.

If he wishes to serve only people of a certain age or one of the sexes rather than the other, it is his right as I understand it.

Senator THURMOND. In other words, this bill is in an entirely different category from a public utility which has a monopoly?

Mr. LAKE. Certainly.

Senator THURMOND. For instance, it covers establishments other than the public utility which serves power or gas or any other type of public utility. There they have a monopoly, and it is nothing but proper that they should serve everybody, whether they want to or not, because the public is dependent upon it.

In this field of the operation of a private business, the individual, whether he is an interstate traveler or an intrastate traveler, is not dependent upon any one private business establishment for service, but he can obtain it at any place he wishes to.

Mr. LAKE. That is correct. And, of course, so far as the public utility is concerned, at least in the ordinary accepted use of that term, you have a monopoly which is not a monopoly of fact, it is a monopoly of law.

I am sure in all of our States the telephone company, for example, has a monopoly of law. You and I cannot go into North Carolina or South Carolina communities and establish a telephone company without getting permission from the utilities commission of our respective States.

But the restaurant business is not that way. If there is a demand for additional restaurant service in Fort Mill, as you say, then you or I can go there and build it or anyone else can go and build it. We do not have to get permission from any Government agency to operate a restaurant. We have got to meet certain health requirements, of course.

So that is your difference between your ordinary public utility, and that may be, of course, a place where the restaurant in one place may differ from the restaurant in another place. I am not certain there is such a difference, but that would be the point of departure if there is one.

Senator THURMOND. Now, Dr. Lake, you have given a great deal of thought to the Constitution, and I am sure you have studied the interstate commerce clause. Is it not your interpretation that the clause was intended to apply to goods from the time they left one State until they arrived in the other State?

Mr. LAKE. Well, of course, when you say "goods," you mean "persons" also!

Senator THURMOND. That is right.

Mr. LAKE. Yes, sir.

Senator THURMOND. Persons or goods.

Mr. LAKE. I think that was probably the place where the framers of the Constitution originally would have drawn the line. When you get in, of course, to the original package doctrine and that sort of thing. But basically, as I recall, the cutoff point is where the goods coming into North Carolina from another State are so blended into the general mass of goods in North Carolina that they are no longer subject to discriminatory regulation because they come from outside of State.

The purpose of the commerce clause is basically to keep North Carolina from discriminating against Virginia articles or Massachusetts articles because they are not made in North Carolina.

Senator THURMOND. It is to prevent discrimination in goods or persons traveling from one State to the other?

Mr. LAKE. In favor of your local goods; yes.

Senator THURMOND. Well, if a person operates a private business in a particular State, then the goods he handles, even though they may have come from another State or been manufactured in still another State, would not come under the interstate commerce clause, as you would conclude; would it?

Mr. LAKE. It would not; no, sir. I do not think that the commerce clause, for example, was ever intended to say that I as a citizen of North Carolina must buy a pair of shoes from Massachusetts instead of a pair of shoes from North Carolina. That is up to me which shoes I will get.

Senator THURMOND. Dr. Lake, if a private business should be compelled by force and compulsion of a Federal law to serve people he does not wish to serve—is there not the risk that that might destroy that business?

Mr. LAKE. I do not think there is the slightest doubt about it, Senator.

I, for example, Friday morning or Saturday morning went to my barbershop in preparation for coming up here. I told my barber what my views of this bill were as to its application. He said, "Well, I just would have to go out of business."

Now, that is the way that the small shops, retail stores, restaurants, and so on, feel about it, and they will have to go out of business because the local people in many communities simply will not patronize them. I am not saying whether they should or should not. I am talking about what they will do.

Senator THURMOND. And even though an operator should be willing to serve people of all races and colors, if his business is destroyed, his business is destroyed, and he is out of a means of making a living; is he not?

Mr. LAKE. There is no question about that. If the restaurant owner wants to serve——

Senator THURMOND. If he wants to do it—he ought to have a right to do it?

Mr. LAKE. It is all right with me. It is all right with the government of North Carolina as I understand it. But he ought not to be made to do it when he thinks that by doing so he will be cutting his own throat economically.

And when you do that, when you do force him out of business, Senator, then you are not doing interstate commerce any good because there just is no restaurant for anybody to patronize.

Senator THURMOND. Are you not placing a burden on interstate commerce if you destroy restaurants or barbershops or other places along interstate travel which could serve interstate travelers if they were there?

Mr. LAKE. There is no doubt whatever in my mind that if you pass this bill the effect in North Carolina and in many other States will be to dry up, close—and I am assuming now that it is going to be

enforced—dry up and close many businesses, and you will put a burden on interstate commerce by doing it.

Senator THURMOND. Now, the claim is made here that it would bring more business to these places because there would be, for instance, Negroes patronizing white restaurants, and so forth. In your State do you not have a great many Negro restaurants?

Mr. LAKE. Yes, sir.

Senator THURMOND. Well, if—

Mr. LAKE. I do not know how many. I cannot answer statistically. But I know there are many.

Senator THURMOND. If the Negroes begin patronizing white restaurants, would that not help destroy the Negro restaurants?

Mr. LAKE. I do not know. I assume it would. It seems logical to me it would, but I know that it would destroy a good many white restaurants.

Senator THURMOND. Again, does it not come down to the matter of freedom?

Mr. LAKE. It certainly does.

Senator, let me go back just a moment to that matter of increasing one's business. As I say, there is no law in North Carolina that prevents a restaurant from opening its doors to white and Negro patrons together. Well, why do they not do it? Obviously because the people who run the restaurants think that it would damage their business.

Now, I am not a restaurant man. I have had no experience in operating a restaurant. But the people who are restaurant men are obviously of the opinion that they cannot do a good restaurant business if they integrate. And I think that that is their right, that is their freedom, and they know more about operating restaurants in North Carolina than any of us in this room do. They are the real experts on it.

Senator THURMOND. The local people in a community know their local problem better than bureaucrats sitting Washington; do they not?

Mr. LAKE. Well, I am quite sure that that is true. The people in Wisconsin know much more about what is good for the restaurant business in Wisconsin than I do certainly, and I would not undertake to tell them how they ought to run their business.

Senator THURMOND. And is it not, as you said, in your opinion, not only unconstitutional but also unwise for Washington to be telling the people of Wisconsin or North Carolina how they have got to operate their own private business establishments?

Mr. LAKE. Well, Senator, I think that the whole history of America, economically, socially, and otherwise, demonstrates that that is true.

I believe that that is basically the underlying principle of our Federal system. There are some things that can be handled best at the local level.

Now, for example, parking. I just take an extreme illustration. Parking regulations. The people of my little town in Wake Forest know more about where you should and should not have restricted parking than do the Senators of the United States because they go there every day. So that sort of thing ought to be left to the town council. It ought not to be passed upon by the Congress.

Of course, there are other things such as international relations where we have to operate on a basis of a national government. That is the purpose of having our United States. We have a balance between local interests and national interests.

Now, of course, that has room for differences of opinion as to just where the line is. There is no sharp line; I know that. But there are certain things that are local in nature, and they vary. The proper solution for a particular problem with reference to that matter in New Hampshire is one thing, in Nevada it is another, in North Carolina another. So the Federal Government ought not to undertake to regulate it.

Senator THURMOND. And if this bill should pass, might it not also set a precedent whereby the Federal Government could inject itself into the very type thing you just mentioned, and that would be, for instance, the zoning of property or the handling of traffic and other things on the pretense that what is now being done in the local communities or States infringes upon interstate commerce and places a burden upon it?

Mr. LAKE. Well, I think when my little town says to an interstate traveler, "You can't park in front of the post office," maybe that is restriction on interstate commerce just as truly as for the proprietor of a restaurant to say, "I don't want to feed you."

Senator THURMOND. It is a similar situation, is it not?

Mr. LAKE. Yes, sir.

Senator THURMOND. Now, Dr. Lake, going back to the purpose of government, is it not true that the people originally came to this country seeking the right to worship as they pleased and seeking freedom in other respects and that was the main object in their coming to this country?

Mr. LAKE. Well, of course, there are many reasons why different individuals came to this country, but I believe that that would probably be a true statement as to why the majority of them came. Some came for adventure. Some came because they expected to find gold lying around on top of the ground. And so on.

But, as you say, that is the reason that most of our ancestors came to America; yes, sir.

Senator THURMOND. And is it not true that the ultimate aim of government today should not be economic security guaranteed to the people or not welfare handed out to the people but the ultimate aim of government today should be freedom?

Mr. LAKE. Senator, I have no question about it so far as I am personally concerned. And I am thinking now in answer to your question and looking ahead to my grandchildren and their little contemporaries. I do not want to see this Government based on the premise that the Government owes those children support and a living.

Now, I am not talking about people who are unfortunate. We are going to take care of those. But this basic idea of security furnished by the Government I think is wrong.

Freedom necessarily carries risks. There is no such thing as freedom without risk. And I personally would rather have for myself and for my grandchildren the risk of freedom than the security in what I would consider to be a cold, dead welfare state.

Senator THURMOND. And is this bill not calculated to infringe upon and destroy some of the freedom for which our Government was established?

Mr. LAKE. Well, I think it strikes a very basic blow at that freedom.

Senator THURMOND. I wish to thank you very much for your appearance here and your fine contribution you make to this hearing.

Mr. LAKE. Thank you.

Senator THURMOND. Thank you, Mr. Chairman.

Senator MONRONEY. Senator Scott.

Senator SCOTT. Dr. Lake, you mentioned one section of this bill which gives all of us I think a certain amount of concern. It appears at the top of page 6 of your testimony, where you say:

If the complainant prevails, he is allowed his attorney's fee as part of the costs, but what if the defendant prevails? Why, he pays his own lawyer, of course.

Now, in attempting to weigh balances and to do equity, this seems to me to be overweighted.

On the other hand, if you attempt to balance it and you provide that whoever is the winner gets his lawyer's fee paid, then it seems to me we are in the realm where the Government is subsidizing the members of the bar.

What is your comment to that?

Mr. LAKE. I think that the way to balance it is to say that neither side should recover its attorney's fees from the other.

In the ordinary lawsuit—at least in North Carolina in the ordinary lawsuit—the attorney's fee is not part of the court costs. I do not see why it should be in this case.

Furthermore, Senator Scott, if I may just add this, in many of these cases, at least where they are brought by the individual, it is a useless formality to say that the successful defendant may recover his costs from the unsuccessful plaintiff, because the unsuccessful plaintiff will not have anything to pay with.

Now, I do think that we might give serious consideration to the possibility of saying that in a suit brought by the United States, if the defendant is successful, the Government ought to pay his attorney's fee.

I would prefer to say perhaps no attorney's fees but, after all, when the United States sues me I am sort of helping to pay those attorney's fees anyhow. And it might be that if the Government is going to be a party plaintiff that the Government ought to give me that protection if it brings suit against me without any justification.

Senator SCOTT. It certainly warrants, to me, very serious consideration, because if you have an indigent plaintiff I can see reasons why he must not lose his day in court, and we have our local, sometimes State, provisions to take care of that, so that every person may come to court and may find means to have an attorney.

But if an injured plaintiff has the United States on his side against the defendant, whoever he may be, and the plaintiff may still recover his lawyer's fees, even though the United States is proceeding *ex rel* the original plaintiff, then to say that a defendant who himself may be on the verge of indigence cannot have counsel fees seems to me to have some elements of inequity.

I think that is a matter we ought to consider very carefully.

I am not sure I want to get the Government into position of paying counsel fees on both sides, even though I have been a lawyer for 40 years.

Mr. LAKE. I do not want to see that either, Senator Scott. I think that would be a serious mistake as a general policy.

But that really is a minor objection to this bill, the attorney's fees.

Senator SCOTT. If the Greyhound Bus Line, for example, happens to own the restaurant where it is providing facilities, would it not be a proper exercise of the Federal authority to provide by law that the Greyhound Bus, which may or may not provide a single restroom aboard the bus, should provide not separate but equal, but should provide equal facilities—that is, the same restrooms without regard to race in the restaurants which the busline operates in interstate commerce?

Mr. LAKE. Well, I would certainly agree that an interstate carrier by bus, airplane, or rail, steamship, whatnot, must supply adequate restroom facilities at its terminals, stations, or on its vehicles, as the case may be.

Now, personally, I am still of the opinion that if you provide adequate restrooms you do not have to say that everybody has got to use the same room.

Senator SCOTT. I think we go back here to the common law where we have no statute one way or another, and I am thinking of the common law of innkeepers. And as I recall the common law of innkeepers in Great Britain and then by transfer to this country in our laws in most States, the innkeeper has the right to turn away objectionable persons, persons whom he believes not to be sober or of good disposition. But the innkeeper is not entirely conducting a private business.

In fact, the words used in this country in the beginning were a "public house," from which we get the word "pub." They also used the word, "ordinary." The common inn or ordinary was to hold out facilities to all.

Not until somewhere in the 1890's did we get these restrictive actions on the part of innkeepers as regards the holding out of facilities in common to all.

And I am wondering if this bill is not grounded on the common law when it refers to public accommodations, the innkeeper being the holder out of a public accommodation. Is that not true?

Mr. LAKE. Senator, before answering that question in real detail I would prefer, of course, to do some extensive research, which obviously I cannot do under present circumstances.

You are obviously correct in saying that—I believe they term it "common innkeeper" in many places—the common innkeeper serves those who apply. But I do know that at least in North Carolina our State supreme court many years ago—I do not remember the volume of the case—stated in I am quite sure the name of the case was Steel—and it was only a matter of common law—that the innkeeper was free to limit his holding out to a certain group. And that was a matter of race in that case.

Now, the State did not say he had to. Understand, that was his choice.

Please bear in mind I am speaking from recollection of having read the case many years ago. That was a decision of our court.

And my impression is that that was the general trend of the authorities at that time, but I could be in error about that. That is, that your inn even quite a long time ago could limit its holding out to a certain category of people, and it fell within that group.

Now, let me just inject this thought for the committee. Let's take a resort hotel. I do not have to go to a particular beach for my vacation. I do not have to go to a particular hotel at that beach. Now, if the proprietor of that hotel has as guests in his house people who are objectionable to me—now, they might not be objectionable to anybody else, but they are objectionable let's say to me, and I am not speaking of race but I am talking about just whatever the reason might be—then I am not going to that hotel for my vacation.

The same thing is true of many other people.

If you say that a hotel at a resort in your State or mine must serve everyone who applies, it is my opinion that in many, many States, not just the Southern States, you are going to put a serious handicap upon those hotels.

Because we go to those hotels not because we have to. We go to those hotels because we enjoy ourselves there. And if we do not enjoy it we are not going, and then your man is out of business.

Senator SCOTT. Well, you are arguing for the right not to go somewhere, which I think no one can contest. This bill before us argues for the right to go somewhere.

Mr. LAKE. Yes. But if the business is out of business, it is an academic question; is it not?

Senator SCOTT. A phrase you used at one place I would like to recall. I cannot recall it exactly, but the word "we" appeared. "We would have to have some provision for that"—referring to the possible absence of facilities for Negro travelers in interstate commerce.

You said you presumed they had a place to go, and the question was, in effect: Suppose they did not. And I recall you said, "We would have to have some provision for that." But the question is: Who is "we"?

Mr. LAKE. I am sorry, Senator, I do not recall saying that so I am not sure—

Senator SCOTT. The general impression I got was that if, in fact, there are no accommodations for long stretches of the highway for interstate travelers who are Negroes that you seemed to me to concede that something ought to be done about it.

Mr. LAKE. As a matter of desirability, yes, certainly so. I think that it would be highly desirable, assuming that that is not true now. And I think in many places it is true now. But I think it is highly desirable that a Negro family, whether they are traveling away from home or whether they are in their home community, have an opportunity if they wish to go out together and have a meal at a nice, clean, attractive restaurant serving good food.

So far as I know, no one would disagree with that statement. I have never heard of anyone who disagreed with that statement.

Senator SCOTT. No. They are entitled to that. But then we get—

Mr. LAKE. I would not say they are entitled to it. They are entitled to the opportunity—

Senator SCOTT. You said they must sleep somewhere and they must eat somewhere.

Mr. LAKE. Yes. And I must sleep somewhere. But I do not think that I am entitled to go to someone's place of business and say I am going to sleep here whether you want me or not.

Now, I have a right to go to the places where I am invited, either directly or by implication. But I do not think I have a right to go into any restaurant if the proprietor does not want me there.

Senator SCOTT. You spoke of some businesses which would go out of business. Now, the percentage of Negro population in this country I do not precisely recall—

Mr. LAKE. I am sorry, Senator; I did not hear.

Senator SCOTT. I do not recall the precise proportion of Negro people in the United States. I do not want to say voters or citizens but all Negroes. But let's say it is in the neighborhood of 10 percent.

Along many interstate highways we can presume I think that it might not be profitable to open up enough Negro restaurants catering to Negro personnel alone, Negro travelers alone. Such persons if they opened it as a public service would go out of business because they would be catering only to 10 percent, let's say, of all travelers on that road.

But if they must have a place to sleep and a place to eat and if someone attempting to establish a private business would go out of business because of the comparative difference between holding out to 10 percent of the people and holding out of service to 90 percent of the people, I am sure you are not arguing, for example, that the Federal Government should subsidize the construction of hotels or restaurants in view of what you have said about the encroachments of the Federal Government.

Mr. LAKE. Senator, I do not favor the Federal Government going into private business in competition with private business. Just generally I am not in favor of that.

Senator SCOTT. Neither am I. But I wanted to get to another point.

Mr. LAKE. I am quite sure of that. I do think that if there is a situation where the public need requires that a certain service be rendered and private business cannot render that service, that is the place where the Federal Government or the State government, as the case may be, can legitimately go into the supplying of that service.

Senator SCOTT. Now, further pursuit of this line of questioning is sure to lead us into exercise in semantics because you said "where the private business cannot furnish the service."

Mr. LAKE. Well, I will say "will not."

Senator SCOTT. The import of this bill is where the private businesses will not furnish the service.

Mr. LAKE. I will amend it to "will not."

Senator SCOTT. If the private business will not furnish the service, and if the service cannot be furnished by private businesses willing to cater to all travelers or willing to cater to the 10 percent of travelers, do you have any solution by which a Negro family traveling will find a place to eat and a place to sleep short of their protection under the laws of the land, the Federal laws of the land and the Federal statutes enacted pursuant thereto?

Mr. LAKE. Well, of course, Senator, as you say, I am not trying to engage in any exercise in semantics.

Senator SCOTT. I know.

Mr. LAKE. And it is difficult for us to avoid some of that in this rather vague field.

I do not believe from my observation of the volume of Negro travel on the highways that there is this tremendous dearth of accommodations that the question would imply. If there is, I still must insist that in my opinion it is both unwise and unconstitutional for the Federal Government to say to a proprietor of a restaurant or a hotel, "Regardless of what you think will happen to your business we are going to make you take travelers whether you want to or not."

Senator SCOTT. I think I have no further questions. Just a comment. I think it was Grover Cleveland who said, "Gentlemen, it is not a theory but a condition which confronts us." And this is our great concern.

Thank you, Doctor.

Mr. LAKE. Thank you.

Senator MONRONEY. Thank you, Senator Scott.

Senator HART.

Senator HART. Doctor, on a matter in your exchange with the chairman on the constitutional point, I understood you said that even if we could find a clause in the Constitution on which we could hang this and thereby avoid the prohibition of the 10th amendment that we would founder because of the due process clause of the fifth amendment.

Mr. LAKE. Yes, sir.

Senator HART. In view of your credentials and experience as a law teacher, I am very reluctant to get into this, but that does not jibe with my understanding.

Senator SCOTT. Senator Ervin is teaching law over in the Judiciary Committee I understand.

Mr. LAKE. I might say we in North Carolina are very proud of the job he is doing.

Senator HART. You have had a long time to observe the job.

Mr. LAKE. Yes, sir.

Senator HART. It is my understanding that if, in fact, there is a clause on which we can hang it—in other words, if there is a grant of jurisdiction—then the limitation of due process is no greater on the Federal exercise of that jurisdiction than the due process inhibition on State action in an area where the State has jurisdiction.

Mr. LAKE. I agree.

Senator HART. Well, then, since the Supreme Court has held that this is a legitimate exercise of State authority, why would it follow that the Federal exercise of similar authority within a jurisdictionally assigned area would founder?

Mr. LAKE. Senator, subject to correction as to what the Supreme Court has held, at the moment I do not recall the case in which the Supreme Court has held that a State can say to the operator of a barber shop that, "You have got to serve people you don't want to serve." There may have been one.

Senator HART. The point I am trying to develop is not with respect to the type of service. I am trying to get clear in the record here what is and is not the constitutional sweep.

The States' action has been held valid by the Supreme Court in the field of public accommodation legislation.

Mr. LAKE. Now, may I simply for—excuse me. I did not mean to interrupt, sir. Go ahead.

Senator HART. You wondered what kind, for example? Well, it just happens a Michigan public accommodations statute went up, and it was held valid, and it was in many respects of broader sweep than the one proposed here.

I am just trying to see if we do not agree—apparently we do—that if it has been held that due process is not violated in the exercise by the State of that authority, then it follows that if we can find the clause to peg similar exercise of authority by the Federal Government there is no question but that due process has been resolved already by the court.

Mr. LAKE. I would certainly agree that the due process clause of the fifth amendment imposes the same limitation on the Congress that the due process clause of the 14th amendment imposes on the State legislatures, yes, sir.

Senator HART. Yes, sir. I just want it to be clear for the record in case there was any confusion.

Mr. LAKE. Yes, sir.

Senator HART. Now, I would like in closing to refer to your statements on pages 12 and 13. It is so easy to paraphrase, and normally I resist the temptation. You do not say it, but there is a suggestion that we are unduly concerned about the attitude of other peoples toward us in this area of race relations.

Mr. LAKE. I think that it is a matter of concern, yes, sir. But I believe that proponents of this bill are very much unduly concerned about it, yes, sir.

Senator HART. Well, you make it more specific when you say that there is not enough being done to show the people of Ghana and elsewhere the picture of America. And then you recite the kind of picture that you think America should present and should be presented to those peoples elsewhere in the world.

That would include an America where this man who goes into business could say—and you list a number of distinguished people here—to the Attorney General of the United States, to a member of the board of directors of the NAACP, "Bud, I am not going to serve you just because I don't want to."

Mr. LAKE. Yes, sir.

Senator HART. You go on to say that you think that the image America should project is a land where as to most things "I don't want to" is a sufficient answer.

Mr. LAKE. Yes, sir.

Senator HART. I think that we are in agreement that as to most things that is a good answer, and it suggests a healthy society.

But what kind of picture is it of America when you say that the man can say, "Bud, I don't want you or your family" to the American Negro in uniform? What kind of picture is that?

Because what he is saying is, "I don't want you because you are a Negro."

Now, is this not one of these exceptions that we should insure exists?

Mr. LAKE. I do not think that the fact that one is in uniform gives him any greater rights to go into private property than one in civilian clothes, and I think that is a very important part of our picture of America.

Senator HART. I agree with or without the uniform this is one of the areas where you ought not to be able to say, "Bud, I don't want you."

Mr. LAKE. Well, that is why we disagree.

Senator HART. This is the point I am trying to make. It just is not right. It is not the kind of picture, no matter how you feel about it, that I want projected of America. And this is the way Congress believes it is possible to correct that picture. And that is why some of us feel so strongly about this.

Mr. LAKE. Well, of course, there are many differences of opinion between Americans, Senator, and I respect your view.

Senator HART. I disagree respectfully and completely with the distinguished Senator from North Carolina whose statement I read in the Sunday press.

Mr. LAKE. I have not read it.

Senator HART. I think that the Defense Department should do all it can to insure that that serviceman when he goes off the post finds every door open to him that is open to every other citizen in that community and his family who is not in uniform should get that same treatment.

So I commend the Secretary of Defense, a Michigander, for his effort even in advance of the time Congress does, to insure this kind of treatment for the American serviceman wherever he may be.

Thank you.

Senator THURMOND. I might just say that I am from South Carolina.

Senator HART. Did I say "North"?

The serviceman in the Carolinas or elsewhere.

Mr. LAKE. We are very proud of both the Carolinas, Senator, and the Senators from both the States.

With reference to the man in uniform, my son is in the armed services. When he puts on the uniform of his country I would be very much ashamed to think that he used the uniform of this country to invade private property.

Senator HART. That is a nice twist, but it really does not resolve the problem or our responsibility to it. I say with or without the uniform that "Bud, I don't want you because I don't like your color" is not the picture that we want to see of ourselves or others to see, as I view it.

Just one step further. Discussion was had as to the motives that brought peoples to this country. To pick up gold and to enjoy freedom were two that you suggested.

Of course, the people whose concern is primarily involved with this bill had no inquiry made to them as to whether they wanted to come or not. And this committee has heard suggestions that what we deal with now in this field of public accommodations is a vestige of slavery and that it is slavery's stepchild.

What I mean is: Those who were free to decide whether they would come here or not meant when they said they sought freedom they wanted to find a country where they would be judged as an individual who was good or bad, desirable or not, not as one who would be admitted because he was of the right religion or not, or the right color, but just exercising individual judgment based on his performance as a man or woman.

And that is the reason I just want again to reject this notion that "Bud, I don't want you" is not the way to handle this area of the exercise of freedom.

Mr. LAKE. Well, Senator, I did not come to this country through my choice. I was born here. And I suspect that most of our people now were born in America.

I do not know—I think we speculate—as to why people come to America. There are a variety of reasons. But to me one of the most precious things about being an American is that I can go into any business I want to go into—as I say, subject to some statutory requirements about certificates of convenience and necessity in limited areas. I can go to any business I want to. I put my money into it. I can manage it as I see fit as long as I do not encroach upon the rights of other people.

Now, there I recognize you are going to say that it is a right of other people to require me to serve them. I do not think it is.

Senator HART. No, that is not what I said. I would say it is my right to expect that you would judge me as a good or a bad man not as a white man nor a Roman Catholic.

Mr. LAKE. As to certain things that would be correct. But, Senator, if I am operating a business for Negro people and your presence in that property would make that place of business unattractive to my Negro customers, I think I have a perfect right to say to you, "I won't serve you."

Senator HART. Sir, I guess then we would have to conclude by saying that what is good for business is not necessarily good for America. But I do not believe it is bad business, and I think we should resolve it based on the testimony of those who say it is probably going to be good business.

Mr. LAKE. I think that is something that we should leave to the proprietor of the business, let him decide what is good for his business. If he wants to integrate it is perfectly proper for him to do so. It is his freedom that I am talking about.

Now, what is good for business may or may not be good for you and me, but I say that whether it is good for me or not the man who owns property in America and who has built a business on that property, the ordinary business such as the barber shop, the grocery store, the beauty parlor, and so on and on, is to decide. And I would be opposed to any law which would require him to serve me and my family against his wishes.

Senator HART. You have made your position very clear and in very temperate fashion. I am sure the committee is grateful.

Senator MONROE. Thank you, Senator Hart.

Senator THURMOND. Mr. Chairman—

Senator MONROE. The Senator from South Carolina.

Senator THURMOND. I just want to make two observations.

One, my distinguished friend from Michigan set out the reason why the Congress favors this bill. I want to say that Congress has not favored this bill yet, and I do not believe they will.

And the next is there has been some point made here about the Federal common law concerning innkeepers. There is no Federal common law. The Supreme Court decision of this country has held there is no Federal common law, and I just want to make that clear.

As to the States that is a different matter. But this is a Federal law being considered here and not a law by the States.

Thank you, Mr. Chairman.

Mr. LAKE. Senator, if I used the term "Federal common law," I am glad you corrected me. I agree with you there is no Federal common law.

Senator MONROE. Thank you, Senator Thurmond.

It seems we keep coming back today to freedom, and, of course, that is always a subject that is close to everyone's heart.

But I keep thinking as I hear it: Freedom for whom? Are we talking about the freedom for the few who serve the traveling public or the millions of people who move in interstate commerce or have a right to expect facilities as a part of the American scene?

It seems to me that while I agree that anybody in a restaurant can say, "Senator, I don't want to serve you because I don't like Senators"—that is perfectly all right—he could not say, "I don't want to serve you because you are white and I serve colored people." Now, this is all this bill does.

And when we look at freedoms, the most bloody war I guess in world history was the War Between the States, and it was fought to resolve a certain issue of freedom.

And as Senator Hart has said, the vestiges of slavery remain in the fact that only one race from a practical standpoint is disqualified from eating in facilities or obtaining tourist or transit facilities in hotels or motels.

And this is a carryover from those days when the colored man was enslaved and was a chattel rather than a person.

And while I am impressed with the right of freedom, it would seem to me that there is another group of freedoms that are very important that have been denied for a number of years in spite of the War Between the States and the amendments that were adopted right after that.

And I do feel there is a responsibility on anyone holding out a service or merchandise or accommodations or anything else as a public enterprise inviting the public to patronize him, whether he puts up a sign "Motel" or whether he puts up a sign "Cafe" or otherwise.

If he does not want a part of the public to come in, then he should, I think, put a sign "Private Club" or some other designation where he is not saying, "I want all the public. Everybody is welcome excepting those who have colored skin"—or if he chooses to say "or Senators" or anyone else.

But the facts of life are that in a large area of the United States these facilities are denied strictly because of this one reason.

The college graduate, a great singer, Ralph Bunche, could be denied a chance to have a first-class accommodation in many parts of the

country, while an ex-convict or any one of far less capabilities who was white would be readily admitted.

This is a problem I think that must trouble the conscience of America. I believe it does. I think it is more than a sporadic agitation.

And I think there are many more white people who share this feeling perhaps than the colored people.

And we would like to have any suggestions you have for answering this dilemma. What can we do? The past I do not think is good enough for us to rest upon.

Is there any way out of this?

MR. LAKE. Well, Senator, it seems to me that if there are a great number of white people who are concerned about this matter, you think, that the solution is very simple. Let them build motels and restaurants and open the doors to whoever may apply.

Now, so far as putting up the sign is concerned, if you want to require a restaurant that, shall we say, does not like Senators to put up a sign, "Everybody is invited except Senators," that might be all right. I think it is a little unnecessary to go to the extent of saying that, "I am inviting only members of a certain group to come to my restaurant," though I think that is perfectly all right for a man to do that if he wants to, and maybe that is the answer.

But I do think that the answer to your questions is for this great group of people—I do not think there is such a great group; I want that clarified—but if there is this great group to which your question relates, then that great group has a perfect right under the law of North Carolina—and I am sure under the law of South Carolina, Virginia, Montana—to build any type of restaurant it wants to build and invite anybody to come there that it wants to come, and I would certainly do all in my power to defend that right, because that is a right of a free American.

Senator MONROE. But they have done that, and in a large degree have been reasonably successful in 32 of our 60 States.

The reason I presume they have not built in these other States, in the 10 or 11 States that have in the past had very tight segregation laws, is there is very little present capital that could be devoted to that, and so it becomes a problem; and the only thing then that you would think could be done would be to build segregated quarters of equal facilities that are good enough to satisfy the need which I presume you admit exists.

MR. LAKE. I think that not only do they have the right to open segregated restaurants and hotels, they have the right to open integrated restaurants and motels.

If there is this great need, if there is this great demand for business, then it seems to me that people of America would be investing their money in it.

Senator MONROE. I think in my reference to the club I was trying to draw a distinction between one who holds himself out as public, that his facilities are open to the general public, and one who wishes to be selective, as in the privacy of his own property management in its entirety.

And it would seem to me if a man wished to have that right as to choice of his patrons, he should establish a club, charge membership, but not take it on himself because of color to say, "Well, everybody is welcome excepting you because you are colored." He is holding him-

self out for public acceptance and public service to all as far as the term "cafe" or "motel" is concerned. But then when the facilities are requested they are denied to a certain group of people because of color.

There might be some other name that these people might wish to operate under if they do wish to maintain their privacy of property. I am sure they can do it as a club.

Senator THURMOND. Mr. Chairman, I do not wish to be discourteous, but the hour of 12 has arrived.

Senator MONRONEY. I heard the bell. I am sorry. My question was just getting airborne at the time the bell rang.

The Senator is within his rights to raise this question, and the committee will not impose on the time element.

Senator THURMOND. Will the chairman permit me to make this observation? A few moments ago the distinguished chairman referred to the War Between the States, that what brought it on was the issue of freedom. It was freedom but not freedom of the matter of the slaves. And I did not want the record to stand just as it was.

Because the South has taken the position, which I think is the correct position, that the States had the right voluntarily and did join the Union, and, as they had a right to join the Union voluntarily, they had a right to withdraw from it voluntarily.

So it was freedom that they were exercising when they attempted to withdraw from the Union back when the Confederate War began.

So I just want to be sure the record is correct.

Senator MONRONEY. I had thought the freeing of the slaves was remotely associated.

The committee will stand in recess until 9:15 tomorrow morning, at which time we will have as our first witness Governor Sanders, of Georgia.

Mr. LAKE. Am I excused, Mr. Chairman?

Senator MONRONEY. You are excused, and thank you very much.

(Whereupon, at 12:05 p.m., the committee recessed to reconvene at 9:15 a.m., Tuesday, July 30, 1963.)

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CIVIL RIGHTS—PUBLIC ACCOMMODATIONS

TUESDAY, JULY 30, 1963

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met, pursuant to recess, at 9:15 a.m., in room 5110, New Senate Office Building, the Honorable John O. Pastore presiding.

Senator PASTORE. Our first witness this morning is the Honorable Carl E. Sanders, Governor of the State of Georgia. We are particularly interested in having the Senators and Members of the House from Georgia here this morning.

Senator TALMADGE. Speaking in behalf of our distinguished guests from Georgia and the members of the House of Delegates of Georgia, it is my honor and privilege to present to this committee Georgia's able and distinguished Governor. Though he is still a very young man, he has had an outstanding career. He has been a leader in religious activities in his home area, and he has been an outstanding civic leader in all areas for the welfare of the city and county and State.

He served his country in uniform. He has served with distinction in the house of representatives of our State and also the senate, where he was president pro tempore and floor leader for the immediately preceding administration of Gov. Ernest Vandiver.

Last year, though he had an outstanding opponent, himself a former Governor, he was elected by an overwhelming majority. He is a man of tremendous energy. It is my great privilege to present to you Georgia's distinguished Governor.

Senator PASTORE. Thank you, Senator Talmadge.

Governor, we are honored to have you. Now you may proceed in any fashion you like.

STATEMENT OF HON. CARL E. SANDERS, GOVERNOR OF THE STATE OF GEORGIA

Governor SANDERS. If I may, I would like to present a statement which I would first like to make, and then of course I would be more than happy to answer any questions.

Senator PASTORE. You may proceed without interruption, Governor.

Governor SANDERS. Thank you, sir.

Mr. Chairman, first I would like to thank this committee for allowing me to appear before this distinguished body. I would like to say at the outset that I did not come here today to discuss moral issues or to debate political ones.

I deplore the efforts to those who would, whatever their forums, exploit passions aroused as a natural consequence of change.

It is my conviction—one which I have expressed often—that the factors of race, color, and creed should not be a bar in the determination of public rights or to the full enjoyment of the opportunities of citizenship.

Every citizen—whatever his origin, persuasion, characteristics, or place or residence—is entitled to equality or opportunity, full access to, and a voice in all programs and facilities supported to any degree by public funds.

The only question before this honorable committee, in my view, is whether accommodation on private property is a public right.

All else is extraneous.

It is your task to determine whether a public desire to enjoy the privileges of private property can override the private right to the ownership and utilization of that property clearly guaranteed and protected by the fourth and fifth amendments.

I submit to you that it cannot.

My remarks will be addressed solely today to the bill which your committee has under consideration, S. 1732, which is more commonly known as the public accommodations bill.

I want to state first so there can be no mistake about it, that the grave doubts which I hold in regard to S. 1732 result not so much from the overstatements in the premise of the proposal but from the harsh and unusual way which it goes about seeking to remedy these situations.

I can speak only of conditions in Georgia.

My purpose is to let this committee know what has been done, what is being done by men and women of good will who have worked together to achieve voluntary solutions to our manifold problems in the quiet, effective atmosphere of the council table where mutual respect and a new and greater realization of the rights and feeling of all our people are allowed to come to the fore.

Through the use of this voluntary approach in Georgia, the progress made has exceeded the expectations of the most optimistic and has surpassed what anyone would have thought possible a year or two ago.

In those communities, where such procedures have been adopted, there have been no significant incidents to mar peaceful conditions and responsible persons are well satisfied with the results of a commonsense approach.

Unfortunately, we have seen throughout the Nation the specter of what happens when there is an unwillingness to resolve these things in the American way, where passions are pent up and have no outlet and the resulting issue is carried by demonstrations into the streets of this land.

I say to you quite frankly and explicitly that if a determination is made on the national level to pursue the course set forth in S. 1732 that the cork will be put in the bottle of mutual cooperation and will make this great moral issue one which is dependent upon Federal force alone for its corrections.

I deplore that.

I hope it will not happen.

Very frankly, events of the past few months have made it increasingly difficult for men of good will to support efforts to correct injus-

tices and to bring about fairer treatment and greater opportunity for all our citizens.

Damage has been done.

There is no doubt about that.

Here are the fundamental reasons why:

External pressures in the form of force, be it Federal or inspired from other quarters, are deeply resented and will be resisted.

This offers no solution whatever.

Neither does S. 1732, which embodies all of these harmful potentialities.

After carefully analyzing the proposed bill, I can only conclude that it is an attempt to bring about a moral result through the application of the constant threat of Federal judicial power and the bare force of the office of the Federal Attorney General and its agents.

We should first examine the fundamental premise of S. 1732.

The revolutionary changes in transportation and movement of people are described and are used as the basis for passage of this bill. But in each instance they are overstated and there is no recognition whatsoever of the fact that these conditions are correcting themselves.

It is so in the State of Georgia.

As the pace of change quickens, so will the corrective action.

I travel about more than any other citizen in Georgia and I have seen great evidence of the fact that we are in a self-adjusting condition and that on a voluntary basis, concrete results will accelerate, but on the basis of force they will be retarded.

The Atlanta Chamber of Commerce has been an instrument for progress in Georgia and its responsible stance over the years on controversial issues has been of help in crystalizing public opinion.

With that preface, I think this committee will be interested in the position this chamber has taken on this bill.

The organization touched the central issue when it said S. 1732, and I quote—

is calculated to narrow the role of voluntary action and to substitute the force of the Federal Government.

It should be noted that prior to going on record in regard to this proposal the chamber adopted a policy setting forth the premise that it was right for business to hold its accommodations open to all citizens, at the same time recognizing the inherent right of a proprietor to make his own management decisions as to the use of his property.

The chamber's board of directors appealed to all its member businesses to eliminate discrimination on a voluntary basis and to do so as expeditiously as good judgment would dictate. But it emphasized that it would never allow itself, and I quote—

to be placed in the position of trying to tell any proprietor how he should conduct his business.

I submit, Mr. Chairman, that the moral action of the Atlanta Chamber of Commerce also states the limits of the constitutional action.

In other words, there exists no authority, constitutional or otherwise, by which the National Government can dictate the actions of the

private property owner in determining the use or disposition of his property.

Assuming only for the sake of argument, the proposed legislation would be upheld as constitutional, I steadfastly maintain it is, both unwise and unnecessary and will not accomplish the purpose stated in this bill.

I deny—I reject—I know that our whole history rejects—the premise of this bill that operation of a private business is “State action.”

The logic does not follow.

It does not connect.

Far from it.

It is an historic fact in this country that a man's shop, his business, something that usually he has built—that is his life—is looked upon in the eyes of the law, in the eyes of man, much in the same manner as his home.

This having been so from the beginning, I submit to you, Mr. Chairman, that in enjoyment of the rights, privileges, and duties of citizenship, a businessman, like every other occupation, has the right to be secure in his pursuit against invasion.

As long as he lives at peace with his fellow man, no government—local, State, or Federal—has the authority to interfere with one's inherent property rights.

History, past and present, demonstrates that the first target of revolution is the destruction of private property. Where this individual right is destroyed, man has been shorn of his ability to exert all of the other rights of freedom.

It goes without saying that the themes of our Federal and State Constitutions are so written as to protect a person in the enjoyment of the fruits of his labors, recognizing that this can only be done where private dominion over property is respected and upheld.

The whole spirit of the first 10 amendments to the U.S. Constitution is to protect the individual citizen in his right to achieve his highest density through his own labors. And I am sure that none would deny that this includes protection of his right to accumulate property through the sweat of his brow and to utilize it for his own enjoyment in whatever manner may be pleasing to him.

We have but to look at the language of the fourth amendment which affords people the right to be secure in their persons, houses, papers, and effects, and this language certainly did not envision a swarm of agents coming in to regulate this or that policy deemed best in the operation of a business.

Nor can any comfort be found in the fifth amendment which in enumerating the highest order of rights which a free people can enjoy sought to guarantee inviolate those precious rights of life, liberty, and property.

Certainly, the organic law of this Nation did not envision when it was written—does not envision now—any deprivation or curtailment of these rights by congressional action.

The provisions of the Federal Constitution relating to an individual's rights to own property have not changed; indeed, they should not change save and except as prescribed in that living document, and if it is felt by the Congress that the provisions and intent of the basic law of this land relative to an individual's property must be altered

"to meet changing conditions"; then, let us submit an amendment to the States and to the people's representatives. Let us, in our constitutional tradition of representative government continue to make the States and the people feel a part of this business of governing. If organic change is good for the people, why not have an expression from them?

We presently are in the process of drafting a new State constitution in Georgia. It shall be my purpose, as chairman of the revision commission, to insist that the language of article I, section I, paragraph II be brought forward into the new document without change.

That paragraph reads:

Protection to person and property is the paramount duty of government, and shall be impartial and complete.

I submit to you, Mr. Chairman, that this language more nearly summarized the basis of our own form of government than any I have ever read.

It is appalling to me that thought would be given to bringing the mighty force of the Federal Government down to the local level and thrust it into the four walls of the store, the shop, the plant, the warehouse, or other facilities of private business.

It is not difficult to imagine the conflict and needless friction which would be generated by this sweeping away of the traditional concept of our Government and substituting for it the "turn your property over to me—come let me take you by the hand and I will show you the way" philosophy.

Let me cite the language of section 2(h) which seeks to make out the case that operation of a privately owned, privately operated, and privately managed business is "State action." The justification is given that the States—

license or protect the businesses involved by means of laws and ordinances and the activities of their executive and judicial officers.

This language reflects no concept of the realities of government.

In all my experience, I would be just as loath to walk into a man's place of business and tell him what he can and cannot do as I would to walk into the sanctity of his home and tell him how he should raise his children.

No burdens have been shown on interstate commerce which would substantiate in any degree the invoking of the commerce clause in support of this bill. To argue that discrimination in this country impedes the free flow of goods cannot be supported.

To say that public meetings cannot be held or that it is inconvenient to do so and that a great problem is presented, in my opinion, Mr. Chairman, is not a factual statement. Two national conventions of the NAACP have been held in Atlanta, Ga., in a peaceful atmosphere without incident or violence.

The claim that the interstate movement of industry is hampered and that business organizations cannot secure workers of the best skills is an argument which has not merit. It was not too long ago that there were complaints about migration of industry from one area to the other.

Location of an industry is a matter which addresses itself to the individual choice of management guided by a desire to return a fair dividend to the citizens who own the business.

To say that the States "encourage, foster or tolerate" discrimination simply is not true insofar as my State of Georgia is now concerned.

We have sought, on the contrary, to promote job opportunity for our citizens and to bring the benefits of efficient government to all the people.

I know and feel that the progress which we made in Georgia the last 5 years and are making now should not be periled though a bill the effect of which would be far worse than the conditions sought to be cured.

Under the terms and provisions of section 3 of the bill, for the life of me, it would be hard to imagine what type of business undertaking would be exempt. No one—I repeat, Mr. Chairman, no one, from the Attorney General on down has been able to come up with a definition of what constitutes a "public accommodation."

Perhaps a roadside stand selling farm produce raised with seeds and fertilizer that was native to the area of production and which would not thereafter move in interstate commerce, may be exempt.

But aside from that, every facet of business life seems to be covered.

This bill is a fundamental departure in our concept of law. It seeks to create a new right at the expense of basic constitutional private rights and to empower the Attorney General of the United States with the responsibility of bringing or intervening in private civil actions to enforce this to-be-created right.

Moreover, the bill contains a provision that where such suits are brought privately by an individual that, if the individual prevails, his attorney shall collect from the businessman an attorney's fee which, of course, might be very large in the event of protracted litigation. This section might be properly termed the "barratry section" and it might encourage a disposition on the part of some to stir up litigation.

One thing that amazes me on reading the bill is the language of section 6(a) which provides that:

The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this act and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law.

Every law student knows that a fundamental principle of American jurisprudence is the prior exhaustion of administrative or other remedies before burdening the courts and the taxpayers with purely personal or politically inspired litigation.

It is significant that we do not find mentioned in this bill such constitutional safeguards as—

- Trial by jury;
- Equal protection of the laws;
- Prohibition of cruel and unusual punishment;
- Right of private property;
- Due process of law.

This bill combines the worst features of all the force legislation defeated by majority vote of the Congress since 1957.

S. 1732 is an instrument of disunion.

A breeder of division.

A weakener of the free enterprise system.

A destroyer of rights.

Under S. 1732, if it became law at your hands, the Attorney General of the United States, conceivably, could, and would, institute a law suit before a Federal judge, sitting on the bench, selected by the Attorney General for life, the suit being brought against one private citizen, in the name of another citizen, at the general expense of all taxpayers, the result of which could be investigation, embarrassment, bankruptcy, humiliation, and even imprisonment in the Federal jail for contempt. There would be no barriers for the citizen against whom this action was brought—no constitution guarantees—no jury—not anything.

Mr. Chairman, the powers sought here were denied to the leaders of every respectable representative government in the whole recorded history of mankind.

The Caesars possessed them not; kings who kept their heads knew better.

I can think of no better way to summarize what I came here today to tell this committee than by quoting what the editors of Atlanta's two nationally renowned newspapers, the Atlanta Constitution and the Atlanta Journal, have written about this proposal.

Journal Editor Jack Spalding wrote:

There is a right way and a wrong way to do things, a hard way and an easy way, a voluntary and an involuntary way. When local conditions make possible the desegregation of facilities such as hotels and restaurants on a voluntary basis, that is all right.

The key word is voluntary and that is the way it should be done.

Such has been the Atlanta system so far, a gradual process based on conversation, negotiation, and collective bargaining.

The results have been sensible solutions sensibly arrived at.

Compulsion by Washington?

It is not needed in places where local conditions make voluntary solutions possible.

In places where local conditions are impossible, compulsion would only add to the strain and resentment.

National politics notwithstanding, local customs, traditions, and usage must be honored in working out these problems. Any other course is reckless.

And Atlanta Constitution Editor Eugene Patterson in his editorial comment put it this way:

No law should be passed unless there is an overriding need for it.

I do not believe there is sufficient need to justify passage of President Kennedy's public accommodations bill.

Negotiation, persuasion, and voluntary progress deserve—on their present scale in America—to continue. They are now yielding better results than would the proposed law which, if passed, could be thwarted by massive evasion.

What the President has done, however, by proposing the probably foredoomed bill, is to make evasion of the racial issue more difficult for individuals.

The important thing he has done is to cause Americans to look into their hearts.

That is needed.

The new law isn't.

If any level of the Government shirks its responsibility, Mr. Chairman, and makes it impossible for religious and moral leadership to function, if force is sought to be substituted for the consciences of decent and respectable citizens, if dissident elements feel that they have no recourse other than to take their problems to the streets, if the chairs at the council tables of fairness, equity, give-and-take are cold and empty, if blind hatred fanned by a few fanatics who represent no thought and action other than themselves is allowed to fester

and inflame, if we are to tell hard-working and law-abiding Americans that morality can only be achieved through the intimidation of the threat of Federal force, then, Mr. Chairman, I fear deeply that the peace, the tranquillity, and the future strength and freedom of our Nation are periled.

Thank you very much.

Senator PASTORE. You have also submitted a memorandum of law in support of your statement. Do you want that made part of the record, sir?

Governor SANDERS. Mr. Chairman, I would like to submit it as part of the record. I do not think it would be necessary, unless you would like me to go into it.

Senator PASTORE. It is not necessary to read it.

Without objection, it is so ordered.

(The memorandum follows:)

MEMORANDUM OF LAW IN SUPPORT OF STATEMENT OF GOV. CARL E. SANDERS

Mr. Chairman, I do not wish to burden your committee further by way of legal argument nor do I wish to encumber the record with a lengthy brief of legal authorities supporting my position.

In recent weeks, many profound legal scholars have discussed before your committee the constitutionality of S. 1732. I respectfully request, however, that these brief remarks addressed to the constitutionality of this proposal be inserted in the record simply as an addendum in substantiation of my previous statement.

The 5th and 14th amendments to the Federal Constitution provide that no person shall be deprived of life, liberty, or property without due process of law. These provisions are founded on the first principle of natural justice and pre-date written constitutions. It was expressed in the provisions of the Magna Charta which protected every freeman in the enjoyment of these natural rights unless deprived of them "by the judgment of his peers or the law of the land."¹

It is significant, I think, that it was the abuse and infringement of private property rights which caused this great document—the foundation of English liberty—to come into being. Indeed, its infraction was a leading cause of why our Nation separated from our mother country. Its value as a fundamental rule for the protection of the citizen against legislative usurpation was the basic reason for its adoption as a part of our constitutions.

These provisions of the Federal Constitution necessarily imply that one of the most cherished rights enjoyed by all citizens is the full, free, and unfettered enjoyment of a person's property. The right of dominion and control over one's property is just as dear as any other human right and must not be trampled in the quest for other privileges of citizenship.

Certainly, the very purpose of these amendments is to prevent governmental encroachment against life, liberty and property of individuals, to secure the individual from the arbitrary exercise of powers of government unrestrained by the established principles of private rights and justice, and to protect property from confiscation by legislative pronouncement.

The term "property" as used in the constitutional guarantee against taking property without due process of law includes not only title and possession but also the right of control and the right to make any legal use of the thing owned.²

The "findings" of S. 1732 purport to give constitutional status to this bill by reliance upon the "powers of Congress under the 14th amendment and the Commerce Clause of the Constitution of the United States."

The 14th amendment provides in pertinent part: * * * Nor shall any State deprive any person of life, liberty, or property without due process of law."³ [Emphasis supplied.]

As clearly indicated by the language employed, this amendment constitutes a limitation only on the powers of the States.⁴ It adds absolutely nothing, however,

¹ Stubbs Constitutional History of England, p. 577.

² *Kuhn v. Detrolt*, 70 Mich. 534; *Braceville Coal Co. v. P.*, 147 Ill. 48, 22 L.R.A. 340.
³ *Helden v. Hardy*, 160 U.S. 306, 42 L. Ed. 780; *U.S. v. Cruikshank*, 92 U.S. 542, 23 L. Ed. 587; *The Butcher's Benevolent Association of New Orleans v. The Crescent City Live-Stock-Landing and Slaughter-House Company*, 83 U.S. 36, 21 L. Ed. 394 (1878); *Shelly v. Kraemer*, 344 U.S. 1, 92 L. Ed. 1150.

to the rights of one citizen against another, but simply furnishes a guarantee against any encroachment by the State on the fundamental rights which belong to every citizen. It is State action that is prohibited—not individual invasion of individual rights.¹

The Supreme Court has uniformly held since the adoption of the 14th amendment that its provisions are self-executing and that the authority conferred on the Congress by section 5 (Congress shall have the power to enforce, by appropriate legislation, the provisions of this article) to enforce the numerous rights is corrective only. That is to say, Congress may only enact legislation to prevent the States from violating the provisions of the amendment or to abrogate prohibited State action. Congress cannot, however, on the basis of this amendment, act directly and primarily on the people and thereby create any new rights. Succinctly, it must restrain itself to preventing the States from encroaching on the rights of its citizens.

Therefore, in view of the explicit language of the 14th amendment itself, together with numerous cases decided by the U.S. Supreme Court, it cannot, in my judgment, be seriously contended that the 14th amendment would authorize the Congress to enact legislation in this field. Indeed, the contrary is true.

§. 1732 is also premised upon the provisions of the commerce clause of the Federal Constitution which empower the Congress to regulate commerce among the States.² A "public establishment" is not—however ingeniously it may be defined—engaged in interstate commerce merely because in the conduct of its business of furnishing accommodations to the general public, it serves persons who are traveling from State to State. It follows, therefore, that a public establishment is not subject to the provisions of the Commerce Clause and, hence, is at liberty to deal with such persons as it may select. This principle was clearly enunciated in a recent decision (1959) of the U.S. Court of Appeals for the Fourth Circuit.³

This principle was later restated and applied in an even later case (1960) by the same court.⁴

Numerous other decisions to the same effect as those referred to above have, I am sure, already been called to your attention and will not, for the sake of brevity, be repeated herein.

In conclusion, Mr. Chairman, I should like to quote excerpts from an opinion of a distinguished jurist of our State, now deceased, Justice Price Gilbert, who, 32 years ago, observed:

"No one in this day contends that the right of private ownership of property is absolute. If held, it must be so used as not to injure unreasonably the rights of others. The American courts have very generally approved the constitutionality of governmental destruction of property rights, rights which have, from the beginning of struggling America, been a constant incentive and inspiration to the industrious and frugal to build for the future. Is the breaking down and destruction of that incentive a worthy achievement of the courts of America? Only time will demonstrate. I am not blind to the apparently overwhelming tendency to weaken and destroy individual enterprise and self-reliance, and to more and more magnify the powers of Government, and to encourage more and more the citizen to seek whatever he wants from a munificent, generous, and all powerful Government. It is only human nature for one to believe sincerely in the justness of that which redounds to his own interests or appeals to his desires. For these reasons it is the duty of the courts, the last palladium of the weak against the strong, the few against the many, to strictly construe these limitations upon individual property, and to administer justice under the law and the evidence. Truth is the object of every legal investigation."⁵

Senator PASTORE. I am going to turn this meeting over to Senator Monroney. I hope I have your indulgence.

I want to thank you for coming. We want to thank the Members of the Congress from the State of Georgia for honoring us with their presence this morning.

¹ *Civil Rights Cases*, 109 U.S. 3, 27 L. Ed. 835 (1883).

² Art. I, sec. 8, cl. 3.

³ *Williams v. Howard Johnson's Restaurant*, 268 F. 2d 845 (C.A. 4th 1959).

⁴ 284 F. 2d 740 (C.A. 4th 1960).

⁵ *Stack v. Atlantic White Tower System, Inc.*, 181 F. Supp. 124 (D.C. Md. 1960), *aff'd*.

⁶ *Hornden v. Savannah*, 172 Ga. 638.

I have an appointment at 10 o'clock at the White House that I know you, Governor, and your constituents are interested in. To be more specific, it is on textiles.

If you will grant me your indulgence I will turn the meeting over to Senator Monroney.

Governor SANDERS. Thank you, Mr. Chairman.

Senator MONRONEY (presiding). I, too, enjoyed and appreciated your statement, Governor Sanders, particularly the strong emphasis you placed on the interpretation of the commerce clause.

One of the fears that I have in regard to this legislation is that it may set a precedent for the use of Federal power over businesses to achieve the smallest and most minor business objective as well as doing what the President and others hope it will do in the matter of bias.

Senator Cotton?

Senator CORSON. Governor, may I join both of the acting chairmen of this committee in complimenting you on your presentation. I compliment you upon it because it is restrained, logical, unimpassioned, and I think much of it voices doubts that I, too, have regarding this particular bill, and, more particularly, the use of the interstate commerce clause in the Constitution as a vehicle for it.

I was much intrigued, Governor, by your suggestion, which has already been voiced by some of us on the committee, that if an attempt is to be made to extend the power of the Federal Government over the use of private property that it should be approached not by the interstate commerce clause nor, perhaps, by the 14th amendment which has in the past been pronounced invalid for the purpose by the Supreme Court; whatever might be the approach of the present; but by Congress submitting to the States a proposed constitutional amendment which would permit this, and thus allow the States, the people of the States acting through the States, to pass upon it.

That, of course, like most of this type of legislation, and of constitutional action, is more easily said than done.

I wonder if you had formulated in your mind and were prepared to discuss even casually and off-the-cuff, the form and the nature that you think such an amendment should take if Congress saw fit to submit it to the States for ratification?

Governor SANDERS. Senator, I think that the Senator's position is certainly well taken, and I think that the people of this Nation recognize and realize that progress is always painful to some extent, and that perhaps this would require a great effort on the part of our National Government, the Congress, and, of course, on the part of our States.

So far as the form of the amendment, I think the amendment should go directly to the point in question. If it is the feeling of the people of this country that private business should be regulated to the extent that individuals should be publicly accommodated regardless of what the ownership of private property may decide, this issue should be spelled out in clear-cut, simple language and submitted to the States and to the people, and the reasons for it.

And if the people of this Nation decide that this is a proper amendment to the U.S. Constitution, I, for one, will say to you that the State of Georgia, and I am sure that all others, would be far more satisfied and would be perfectly agreeable to abide by what is best based on this democratic process, rather than have a proposal that is interpreted,

as we are apparently trying to interpret the amendments that now exist in our Constitution.

Senator CORRON. I appreciate your answer.

It is not yet quite clear to me. If I understand you correctly, you are suggesting that if such an amendment were to be prepared and were to be submitted, it should be all-encompassing and should put up the question of whether the Federal Government would control private business in every aspect.

Governor SANDERS. I think that is what the proposal would amount to that is now before this committee if it is interpreted according to what I would read into it.

If you can regulate it under S. 1732, if you can regulate private business in the manner that it has been explained and presented, it would seem to me that you could regulate any conceivable type of private business in this country. And I think that this is a proper issue that ought to be presented to the people, as to whether or not we are going to have the National Government in the course and conduct of the affairs of our Nation be in a position to take over and regulate the use of private business by saying that all persons, citizens of this Nation, shall be allowed and shall be accommodated if they can control who they would serve in these places of business.

This seems to be the point that this committee is wrestling with under the present bill. I think this ought to be the point that is spelled out in any constitutional amendment that would be presented to the people of this Nation.

I believe that—I tried to cover very succinctly the question before the committee. I think that I covered it when I said that the question is whether an accommodation on private property is a public right. And I think that would be the principle that ought to be submitted in the constitutional amendment.

Senator CORRON. The fact—if it is a fact, and I think there is much to your argument—if it is a fact that the present bill would, if found constitutional, open the way to all kinds of controls of private property, would hardly justify, I suggest to you, not argumentatively, but just to bring out what we are discussing, Congress, should it submit an amendment, in making the same error and opening up the door in the same way that you feel this bill opens it up?

It is alleged, and stoutly affirmed by proponents of this bill, and by the administration, if I understand it correctly—I am not an authority on the administration—that this is simply a matter of declaring and making enforceable a national policy that in places of public accommodation people shall not be rejected because of their color, race, creed, and national origin. And some of us are doubtful that if this were done that it would open up all kinds of controls.

If an amendment were to be submitted, why shouldn't that amendment be confined exactly to that one phase and go no further; in fact, perhaps prohibit any further controls?

Governor SANDERS. I see nothing wrong with that as long as the amendment strikes at the heart of the question, and that is whether accommodation on private property is to be declared a public right by the people of this Nation—the representatives of the people.

Senator, I would simply like to say, if I might, that insofar as this being purely a policymaking proposal, if I would take that for what I construe it to mean, I would say that God forbid we have come to this

point in this country where we would relegate constitutional law into a policymaking proposition.

I think that the language of our Constitution ought to be construed as it is spelled out, and that it should not be simply interpreted as being policymaking that this bill is trying to carry out. I think that it is actually trying to create a completely new right that does not exist at the present time under the U.S. Constitution.

Senator COTTON. Thank you, Governor.

Again I compliment you on a very fine presentation. And I also compliment you on the example that has been given to the country by your State in progress and in peaceful accomplishment in this very difficult field that does challenge and that does worry all Americans.

Governor SANDERS. May I say, Senator, if I might: I know that I am not the only one who has appeared before this committee, and I am sure that my remarks are not necessarily remarks that would fall most favorably upon all of you. But I do believe that we have made more progress in the State of Georgia than any other State that I know of. We have done it voluntarily. We have done it working out our problems on a voluntary basis among the leadership of our people. And I believe today that my position in my State more nearly represents the 4 million people of the State of Georgia, and, of course, the people of the capital city of Atlanta, than any statement that has been presented to this honorable committee.

Senator COTTON. I am sure it does, Governor. I think you have come a long way toward eliminating discrimination with regard to Negroes. I hope that you will, when you have finished the job there, start a crusade to stop discriminating against Republicans and Yankees.

Governor SANDERS. Yes, sir. [Laughter.]

Senator COTTON. Thank you.

Senator MONRONEY. Senator Thurmond?

Senator THURMOND. Thank you, Mr. Chairman.

Governor Sanders, we are very pleased to have you here. I don't think anyone who knows your record would say that you are a racist or biased in any way.

You, I believe, are the youngest Governor in the Nation, or one of the youngest.

Governor SANDERS. I don't feel that way, but I believe I am in years, Senator.

Senator THURMOND. You are considered one of the most progressive Governors and one of the most liberal Governors.

I have been impressed with the statement by the junior chamber of commerce.

Governor SANDERS. I have that.

Senator MONRONEY. I don't believe you presented that.

Governor SANDERS. I would like to.

Senator THURMOND. I would like to read a couple of paragraphs from that statement. I think it would be well for it to go into the record.

Governor SANDERS. Yes, sir.

Senator THURMOND (reading):

The Atlanta Junior Chamber of Commerce has supported and will continue to support all justified demands for equal opportunities for all of our citizens. However, we will not support, but on the contrary, will strenuously oppose, any

demands that are politically motivated and that would have the effect of denying the constitutional rights of other groups of our citizens.

Civil rights, as defined by Webster and as used in its legal meaning, relates to the private rights of individuals in a community and to the legal proceedings in connection with them. Civil rights are and should be distinguished from political rights.

I am sure you agree with that statement.

Governor SANDERS. I do.

Senator THURMOND (reading):

H.R. 7152 would provide injunctive relief against discriminations in accommodations.

That is the House bill.

Governor SANDERS. Yes, sir.

Senator THURMOND. Our Senate bill is S. 1732, a similar bill.

This provision restricts unduly and is an impairment of the civil rights of the private owners of property. It would deny and negate the fundamental principle of free enterprise that allows a businessman to choose his customers and to select the economic and social groups that he will cater to and do business with. The question whether a business should discriminate upon color, race, social or, indeed for any other reason, is peculiarly one of good business and moral judgment to be decided by the individual businessman.

I am sure you agree with that, Governor.

Governor SANDERS. I do, Senator.

Senator THURMOND (reading):

The other provisions of H.R. 7152 are objectionable inasmuch as they do not afford a satisfactory solution to the problem they seek to remedy. These provisions are designed to curtail the initiative of the private businessman and his community to solve these problems on a local level. If legislation is desired in this area, it should be locally originated and locally enforced. The answer certainly does not lie in hastily passed statutes, enacted under force and duress. The Atlanta Junior Chamber of Commerce is opposed to H.R. 7152 in its entirety.

I thought that was a very good statement. It would be well to include it in the record.

Governor SANDERS. If the chairman will allow me, Mr. Chairman, I would like to submit the statement of the Atlanta Junior Chamber of Commerce in the record, if I might.

Senator MONROE. It will be published at this place in the record. (Full text follows):

STATEMENT OF THE ATLANTA JUNIOR CHAMBER OF COMMERCE

The Atlanta Junior Chamber of Commerce, recognizing its duties and obligations to the city and the people of Atlanta, declares its position in all matters affecting the general welfare of our community and our Nation.

The introduction of H.R. 7152 before the Congress of the United States was preceded and accompanied by demonstrations and violence that hardly make a proper background for the calm deliberation that sound and significant legislation demands.

The Atlanta Junior Chamber of Commerce has supported and will continue to support all justified demands for equal opportunities for all of our citizens. However, we will not support, but on the contrary, will strenuously oppose, any demands that are politically motivated and that would have the effect of denying the constitutional rights of other groups of our citizens.

Civil rights, as defined by Webster and as used in its legal meaning, relates to the private rights of individuals in a community and to the legal proceedings in connection with them. Civil rights are and should be distinguished from political rights.

H.R. 7152 would provide injunctive relief against discriminations in accommodations. This provision restricts unduly and is an impairment of the civil

rights of the private owners of property. It would deny and negate the fundamental principle of free enterprise that allows a businessman to choose his customers and to select the economic and social groups that he will cater to and do business with. The question whether a business should discriminate upon color, race, social, or, indeed for any other reason, is peculiarly one of good business and moral judgment to be decided by the individual businessman.

The other provisions of H.R. 7152 are objectionable inasmuch as they do not afford a satisfactory solution to the problem they seek to remedy. These provisions are designed to curtail the initiative of the private businessman and his community to solve these problems on a local level. If legislation is desired in this area, it should be locally originated and locally enforced. The answer certainly does not lie in hastily passed statutes, enacted under force and duress.

The Atlanta Junior Chamber of Commerce is opposed to H.R. 7152 in its entirety.

Senator MONRONEY. You also have one from the Atlanta Senior Chamber of Commerce.

Governor SANDERS. Yes, sir; I quoted that in the record.

I would like to submit the entire statement of the Atlanta Senior Chamber of Commerce. It is very short.

Senator MONRONEY. It will be printed in full at this place in the record.

(Full text follows:)

STATEMENT OF THE ATLANTA CHAMBER OF COMMERCE

A resolution: On May 29, 1963, the board of directors of the Atlanta Chamber of Commerce adopted unanimously a statement of policy on the subject of discrimination in public accommodations. This policy statement recognized the inherent right of a proprietor to make his own management decisions as to the use of his property by stating * * * "The chamber of commerce will never allow itself to be placed in the position of trying to tell any proprietor how he should conduct his business * * *."

The statement of policy continued, however, with an appeal for voluntary elimination of discrimination by stating * * * "The board of directors of the Atlanta Chamber of Commerce appeals to all businesses soliciting business from the general public to do so without regard to race, color, or creed and to do so as expeditiously as good judgment will dictate * * *."

Consistent with its earlier stand for local and voluntary elimination of discrimination, the board of directors opposes passage of H.R. 7152, the proposed civil rights bill as at present drafted. The bill is calculated to narrow the role of voluntary action and to substitute the force of the Federal Government, posing a grave threat to local responsibility and personal freedom which far outweighs any possible improvement in the opportunities of minority groups. The board finds particularly objectionable that section which would deprive purely private business enterprises of the right to serve or refuse service to whomever they please.

Adopted by the board of directors, July 17, 1963.

Senator THURMOND. Governor Sanders, on page 1 of your statement you say that:

The only question before this honorable committee, in my view, is whether accommodation on private property is a public right. All else is extraneous.

That seems to be a very succinct manner in which to phrase it; whether accommodation on private property is a public right.

Is it a public right?

Governor SANDERS. I do not think it is a public right, Senator, to infringe upon private property. I think that all of the private property rights that we enjoy are really human rights, and I think that this is a right that this Nation was built on, and I don't believe that public accommodation on private property is a public right historically, and I don't think we should make it a public right now.

Senator THURMOND. On page 2 of your statement you say:

• • • If a determination is made on a national level • • •

and I emphasize "national" because some States, about 32, I believe, have so-called public accommodations laws. I don't like the name "public accommodations." I think it is misleading. I think it is terminology devised by some of those who favor this bill, not necessarily the authors but some of those who support it, to inculcate in the public's mind that these are public facilities to which everyone is entitled. Possibly a more apt phrase would be "a bill to infringe on private property," or something similar to that.

But at any rate, you say:

• • • If a determination is made on the national level to pursue the course set forth in S. 1732 that the cork will be put in the bottle of mutual cooperation and will make this great moral issue one which is dependent upon Federal force alone for its corrections.

What change has been brought about in Georgia, as I understand, has been on a voluntary basis; has it not?

Governor SANDERS. Almost without exception.

After the 1954 decision, of course, there was—I would be less than candid to say otherwise—there was a lawsuit brought in Georgia with reference to the educational facilities in our State. That lawsuit resulted in the implementation of the law handed down by the U.S. Supreme Court. Since that time we have had no difficulty and we are proceeding in conformity with the law of this land.

Senator THURMOND. I believe Mayor Allen last week said that with the exception of two instances, the school and maybe the swimming pool, which could have been closed or kept open and was kept open so therefore was a voluntary action, that all other actions had been on a voluntary basis.

Governor SANDERS. I think that's right.

Senator THURMOND. He was reciting how much had been accomplished in Atlanta.

Governor SANDERS. I think Atlanta is one of the most eloquent reasons, bits of evidence, as to why this law is not necessary, and should not be passed.

Senator THURMOND. I observe, however, that the mayor of Atlanta did favor this bill. He favored the compulsory national legislation.

I want to ask you this: He is the mayor of the city; do you feel that his sentiments as expressed here represent the feelings of the people of Georgia in this matter?

Governor SANDERS. No, I do not.

I have stated and I state again that the record of Atlanta in achieving voluntary adjustments by men of good will, acting in good faith, is the most eloquent and persuasive argument that I know of against the need for enacting this legislation. And I do not feel that the statement of the mayor of the city of Atlanta, who has done a fine job, represents either the feeling of the majority of the people of Atlanta or the feeling of the great majority of the people of the State of Georgia.

Georgia would much prefer to use the do-it-yourself principle than certainly to have Federal laws which automatically would create barriers between the leadership in the communities of our State that are now able to sit down and work out these problems voluntarily.

In my opinion if this law is passed, in effect it will simply mean that the individual who now can sit down and work out these problems and be a part of the labor pains in bringing them about to a successful conclusion, will in the future refuse to do so, and that it will create all and every type of evasion that you can possibly imagine as to why they will not comply with the law.

Senator THURMOND. Which do you feel that the people of Atlanta would chose today, voluntary methods or Federal compulsion?

Governor SANDERS. Voluntary on their part without any Federal law.

Senator THURMOND. And that is the people of Atlanta?

Governor SANDERS. Yes.

Senator THURMOND. And I believe you said the people of Georgia feel the same way?

Governor SANDERS. That is my opinion, my personal opinion.

Senator THURMOND. On page 3 of your statement you said that :

External pressures in the form of force, be it Federal or inspired from other quarters, are deeply resented and will be resisted.

Governor, do you feel even if the State passed a law on this subject, that that would be resented by a great many people—

Governor SANDERS. Yes, I do.

Senator THURMOND. That voluntary action would still be the best way?

Governor SANDERS. Yes, I do, sir.

Senator THURMOND. I believe there was a mayor who testified here from Maryland a few weeks ago, who said that if we had had a Federal law of this nature on the books at the time, that they never could have accomplished what they were able to accomplish on a voluntary basis. Is that your thinking?

Governor SANDERS. Those are my sentiments.

Senator THURMOND. At the bottom of page 3 of your statement I observe you state:

The organization—

Speaking of the chamber of commerce—

touched the central issue when it said S. 1732, and I quote, "Is calculated to narrow the role of voluntary action and to substitute the force of the Federal Government."

So if the force of the Federal Government is substituted for voluntary action, which seems to have brought about so many changes in the city of Atlanta, would not this probably be a setback for the city of Atlanta and other places in Georgia, and maybe throughout the Nation?

Governor SANDERS. I think it would retard what is presently being done, and certainly perhaps would injure and damage what has already been done voluntarily.

Senator THURMOND. Do you feel that under the Constitution, where a man has a right to own property, that if a bill like this is passed, it would be a violation of the 5th and the 14th amendments, which provides that no person shall be deprived of life, liberty, or property without due process of law, and the provision of the Constitution which provides that no person shall have his property taken, that is by condemnation or otherwise, without just compensation? Would not this

bill, in effect, be a taking of his property, say, if it brought about a close of his business or affected his business?

Governor SANDERS. Senator, without trying to relate it to each and every amendment that you have mentioned, I do feel that the right to own private property is that basic fundamental right of the human being and that if this right is taken away—I think this bill would take it away, fundamentally, what other rights could we then build on? I think it would destroy the basic cornerstone in our way of life, in our Government, and certainly would be most destructive to what this Nation has been built on.

Senator THURMOND. The distinguished Governor from the State of Florida yesterday, Farris Bryant, brought out the point, speaking of property, that there are no property rights, but there are human rights in property. I thought that was very well expressed. What higher right does a man have as a civil right, as a private right, as a right of a citizen, than to own property?

Governor SANDERS. I think property rights and human rights are certainly synonymous.

Senator THURMOND. The ownership of property is merely the exemplification and manifestation of one of the great human rights; is it not?

Governor SANDERS. Yes.

Senator THURMOND. On page 6 of your statement I observe you state in your new State constitution, that one section is proposed to contain this:

Protection to person and property is the paramount duty of government, and shall be impartial and complete.

Governor SANDERS. That is the present section of our constitution. This we expect to continue to take.

Senator THURMOND. That is in your present constitution and you expect to embrace it in your new constitution.

If this bill should pass, would that not be adverse to that provision?

Governor SANDERS. I would so interpret, yes.

Senator THURMOND. And be in conflict with it?

Governor SANDERS. Yes.

Senator THURMOND. And you feel that that provision, which is now in your constitution, and which it is contemplated to leave there, is a sound provision for the protection of citizens as I understand it.

Governor SANDERS. Yes, I do. I feel like the framers of the Georgia constitution considered a person and his property inseparable, a view in which I concur wholeheartedly.

Senator THURMOND. I observe you stated on page 7 of your statement that two national conventions of the NAACP have been held in Atlanta in a peaceful atmosphere without incident or violence.

Governor SANDERS. That is correct.

Senator THURMOND. If we had had a Federal compulsory law, as is contemplated to be passed here now, do you think those conventions could have been held in Atlanta under the same atmosphere as existed when they were held?

Governor SANDERS. Senator, I think that would depend to a great extent on how much Federal compulsion might be in existence at that time. I think certainly it would be a factor as to whether it could or could not have.

My personal view is that it would have been much more difficult to have had these things with a Federal compulsion law than without a law, and that these two conventions were held without incident and in a peaceful atmosphere.

Senator THURMOND. If this compulsory law is passed, and the compulsion is exercised, would this not support the theory that to give certain individuals rights, destroys the rights of other citizens?

Governor SANDERS. I think it is a proper analogy as it appears to me that this law is an attempt to invade the private rights of one group of citizens by the rights of another group of citizens, private property rights being invaded by another group of citizens. I don't think this is good for any citizens of this Nation.

Senator THURMOND. Governor, our Constitution provides that when a man is charged with a crime, that he is entitled to a trial by jury. It makes no exemptions, as the 1957 law Congress passed which provided that if the punishment is greater than \$200 or 45 days in jail, then he would have a jury trial. The Constitution makes no exceptions of that kind.

I observe you stated here that you do not find mention in this bill of such a thing as trial by jury. So if a person under this proposed law should be charged with a violation, he would be brought up by injunction and could be sentenced to prison or a fine without a trial by jury, could he not?

Governor SANDERS. That is my interpretation. I hope I am correct. I do not find any mention of trial by jury in the bill.

Senator THURMOND. Would that not be in violation of the Constitution itself?

Governor SANDERS. I think that would be in violation of the basic rights as set forth in the Constitution, yes.

Senator THURMOND. Isn't that setting a dangerous precedent for this Congress to be passing a law that under any condition that would deprive a man of the right of trial by jury of 12 of his peers.

Governor SANDERS. I certainly hope this Congress would not pass such a law.

Senator THURMOND. Certainly no one could accuse your Atlanta papers as being reactionaries; I believe they are considered extremely progressive, if you wish to use that term, or liberal, are they not? Both of those papers have come out in editorials against the passage of this bill—

Governor SANDERS. That is correct.

Senator THURMOND. As contained in your statement. I observe in one of the editorials it is stated, and this is one, I believe by the general editor, Jack Spalding:

National politics notwithstanding, local customs, traditions, and usage must be honored in working out these problems. Any other course is reckless.

Do you not feel that if the Congress passed such a law as this, an attempt to enforce such a law, that such a contravention of local customs and traditions overnight could cause a great upheaval and such tremendous reactions of the law that respect would be lost for a law of this kind?

Governor SANDERS. I think the law would simply, in the common vernacular, cause many people who are working very conscientiously

at this problem to throw in the towel and simply turn it over to the Federal Government to implement, to enforce.

Senator THURMOND. Is it your feeling, as I caught from what you said, although not said I believe in context, that there are two ways in which change might be brought about: One, on a voluntary basis; the other, for a proper amendment to be submitted to the people to amend the Constitution of the United States.

Governor SANDERS. Make them feel a part of this Government and a part of the changes in the basic law of this Government. I think this is the basic change in a basic law. Certainly an amendment to the U.S. Constitution would be the proper vehicle if such a change is to be made. If it were decided by the people to make the change, I think the people would accept such a change far easier than they would by interpretation of a statute which is now being proposed by this committee.

Senator THURMOND. Some years ago they adopted the prohibition amendment, and later they felt they had made a mistake, and they adopted another amendment which repealed the prohibition amendment. But if it is going to be done by law, isn't that the proper approach, the legal, the constitutional approach?

Governor SANDERS. I would agree with you.

Senator THURMOND. Governor, sometimes doesn't it pay, and isn't it advisable to take a little longer and follow a constitutional method, rather than to try to accomplish immediately what a great many feel might be a desirable goal?

Governor SANDERS. I have been told sometimes that haste makes waste, and I am sure that sometimes it does.

Senator THURMOND. Governor Sanders, there are a great many other questions I could ask you, but I do not wish to take more time. I wish to thank you for your presence here in coming and testifying, and for the fine contribution that you made to this hearing.

Governor SANDERS. Thank you, sir.

Senator MONRONEY. Senator Bartlett?

Senator BARTLETT. Thank you, Mr. Chairman. I have no questions.

However, Governor Sanders, I shall say that in my opinion you are a most eloquent spokesman for the cause that you have embraced, and in which you obviously believe so deeply.

Governor SANDERS. Thank you, sir. I appreciate your remarks.

Senator MONRONEY. Senator Scott?

Senator SCOTT. I have no questions.

Senator MONRONEY. Senator Hart?

Senator HART. Governor, as Senator Bartlett said, you honor the people who sent you here.

Governor SANDERS. Thank you, sir.

Senator HART. I am sure you are quite right in saying that the mayor of Atlanta did not express the opinion of the majority of the people of either his city or your State with his voice.

Governor SANDERS. In my opinion, Senator.

Senator HART. That is my opinion, too. That is why I saluted him for his courage.

Governor SANDERS. I have no quarrel with that whatsoever. I think I stated that that was my personal opinion, and that of course is the

way in which I expressed it. He is a man of integrity; there is no question about it.

Senator HART. As I know you are.

Governor SANDERS. Thank you, sir.

Senator HART. Governor, I have attempted to find in your statement one line that might explain to you why you and I happen to share different views to the approach we should take. It may be found on the very last page, where you describe those persons who feel that we need this law as "dissident elements."

Governor SANDERS. Yes, sir.

Senator HART. I don't accept that definition, but to excerpt from that last and very moving sentence of yours:

"* * * If dissident elements feel they have no recourse other than to take their problems to the streets—

this perhaps suggests why we have a different view.

I have the feeling that that explains Birmingham, and that there will be many other Birminghams if indeed the Congress fails to find an instrument which will permit them to get to court and take them off the streets. This is the concern many of us have.

Governor SANDERS. I can understand that concern, Senator, and certainly I, too, deplore the demonstrations in the streets. I think those demonstrations that lead and result in violence are not the proper place. I think the courts are the proper places to decide these questions. But I don't think, in order to provide a vehicle with which this particular committee is concerned, that we should trample or transgress upon the rights of private property, and I think that is where we disagree. I feel like the ownership and the right to control the dominion of private property is a right that is embedded in our Constitution and should not be changed for public accommodation purposes.

Senator HART. I am sure you would agree, too, that the law school libraries are full of books that attempt to describe the concepts of property and those limitations that properly may be imposed upon it, and those which may not.

Governor SANDERS. The law is not an exact science.

Senator HART. Indeed not.

This closing comment is really not directed to you but to each of us on the committee and in the Congress. We don't need any constitutional amendment if we want to do something about this. We just don't. Unless we want to reduce the authority that the Federal Government in fact does now have in the Constitution.

We can disagree as to the sweep of the commerce clause. There will always be gray areas, whether we use the phrase "substantially affect," or "relate to," or "burden." But there will remain always, too, some areas where it is very clear and indisputable that there is Federal jurisdiction. We don't have to agonize as to whether we have jurisdiction, or whether we need a constitutional amendment.

There is clearly an area for discussion as to whether we prudently should exercise the jurisdiction, the wisdom of the use of the power. But we have the authority to act. And I hope we have the wisdom to see the necessity, to see the wisdom of action.

Governor SANDERS. May I respond?

Senator HART. Yes.

Governor SANDERS. I think if the Congress wants to audaciously take this bill and pass it, based on what some Members of Congress may feel is an interpretation of our present Constitution, that you could proceed without any further action on the part of the people or the representatives of the people of this Nation.

Senator, I believe that the democratic way, the way in which to properly present this matter and receive the unified support of the people of this Nation, is to keep them a vibrant and living part of this Government. And I can think of no better way of approaching the problem that you are so sincerely concerned about and I am than proposing a constitutional amendment that would allow the people of these States to express themselves through their legislatures and through the U.S. Congress as to how they do feel about this, and what is the result that they desire, so that all citizens, then, could join in with whatever their voice so states.

Senator HART. That suggests an easy out for Members of Congress, if they really want to take it. But I think time runs pretty hard on us here. The constitutional amendments do not get on the books overnight.

Governor SANDERS. No, sir.

Senator HART. I question even the soundness of the approach in any event. I can imagine the wrestling that would go on in framing the question.

Governor SANDERS. Apparently there is a problem here now in trying to define the words "public accommodations."

Senator HART. I could imagine the extremes of the question: Do you want to be dispossessed in the middle of the night of your living room; or, second, do you think it is right to judge a man while he is still 50 feet away?

You will get different answers.

Governor SANDERS. Yes, sir.

Senator HART. Thank you, Mr. Chairman.

Senator MONRONEY. Thank you, Senator Hart.

Governor, you point out on page 3 of your legal brief the court decision marked "5" and "6" with reference to the *Williams v. Howard Johnson*.

Governor SANDERS. Yes, sir.

Senator MONRONEY. This was a case that was particularly selected, was it not, to try to bring in all of the interstate elements that could be found with relation to the interstate commerce clause? If it was on an interstate highway, a person seeking to use the facilities was an interstate passenger, and so on. And the Court of Appeals for the Fourth Circuit refused to uphold the plaintiff's contentions, did it not?

Governor SANDERS. Yes, sir.

Senator MONRONEY. It never went to the Supreme Court?

Governor SANDERS. I don't think it ever went to the Supreme Court. I don't know whether there was even any request to go to the Supreme Court, or whether that was denied.

Senator MONRONEY. The White Tower, I believe it was, the *Atlanta White Tower Systems*, a Maryland case, dealt with the same thing, trying to involve interstate commerce into normal eating facilities?

Governor SANDERS. That is correct.

Senator MONRONEY. Do you feel there is any situation where the interstate commerce clause would properly apply? For example, we know it applies in bus stations, and I feel quite properly so; it applies in air terminals, in railroad stations, and in other places as well.

I wonder if you would feel that a business house, such as Howard Johnson's, that specializes in interstate operations and in highway service would be covered. Incidentally, figures will show that more people travel by car than in the combined rail facilities, air facilities, and bus facilities, so it does become an important means of interstate commerce. So would you feel that there is a proper application of the interstate commerce clause to facilities that are truly interstate, providing large numbers of interstate passengers with the normal accommodations that they must have in their travels?

Governor SANDERS. Senator—

Senator MONRONEY. Is there a point in the commerce clause that fits a certain category?

Governor SANDERS. I do not think so. If I did, of course I think that my legal position here today would be completely contrary to what I have stated.

I think that unquestionably we all agree that those things that are controlled and actually dispensed by the Federal Government, as you have pointed out, the bus stations and, of course, the railroads and the airlines and things of that kind, that there is no question about it in my mind where the Federal Government has given someone the exclusive right to operate this type of facility that certainly that is a proper function, and anyone who attaches himself to that franchise, restaurant owner, if he leases from a Greyhound bus operator, that he must be subservient to what the Federal Government has granted in the first instance. But I do not believe that out on the highway, where any individual can set up his own business, and where there is no monopolistic granting of power by the Federal Government, that you could then say that this was a proper interpretation of the interstate commerce clause.

I think that commerce—and I am sure you have had this debated many times before this—that it relates itself more, and that the framers of the Constitution, when they put that commerce clause in there, were thinking about the exchange of goods, production of goods, property of any kind, and they were not attempting to regulate the transportation of people; that they were really attempting to regulate the transportation of goods.

And I believe that *Howard Johnson* case that came up in the fourth circuit is a proper dissertation of what the law is, and what I hope the Supreme Court of the United States would hold, that a public establishment is not, however, ingeniously as it may be designed, engaged in interstate commerce merely because in the conduct of its business of furnishing accommodation to the general public it serves persons who are traveling from State to State.

It appears to me that under this bill, if it was passed and if it was attached to the interstate commerce clause, that if private business can be regulated as to whom they will serve or can serve, that under the same law you could regulate what they could serve, you could regulate who they could employ, you could regulate the salaries that

they would pay, you could regulate the height of the tables that they would serve people on. And, of course, this would be a hinge, and it could actually permit regulations to go into all these other fields it is conceivable, and it seems to me it would be a hinge for any other type of regulation of private business.

I just firmly believe that the interstate commerce clause does not extend itself to the point that it would require public accommodation on private property for persons traveling from one State to another.

That unfortunately is the only view that I have on the subject.

Senator MONRONEY. I disagree on that. I feel that there is an area that can properly be said to be interstate commerce. I don't think it extends down to mom and pop's hamburger stands or purely local enterprises serving all local and practically no transient trade. But it is going to be a difficult definition to establish.

Governor SANDERS. How would you draw that line?

Senator MONRONEY. This is a difficult definition. This is the \$64 question that we are faced with.

Of course, you would also be against local regulation by law to prohibit bias.

Governor SANDERS. You mean by State action?

Senator MONRONEY. Yes. I conclude that from what I understood of your answers to Senator Thurmond's questions.

Governor SANDERS. Fundamentally I would. I think if it is going to be done I think the proper area in which it should be done is through State action, if this is going to come about. But I would be against it. I don't think in my interpretation that it is practical.

Senator MONRONEY. And that would be better achieved voluntarily?

Governor SANDERS. Yes, sir.

Senator MONRONEY. As I understood Senator Thurmond's questions to you, you believe the right of private property and the sanctity of it against Government regulations extends not only to the Federal Government but also to the local government.

Governor SANDERS. Yse, sir. You are correct.

Senator MONRONEY. Haven't we gone way beyond that in all forms? I imagine your State, like most States, has, in the protection of the public that is to be served in facilities such as eating places and hotels, laws concerning examination of silverware and kitchens and health inspections of people who work therein, and fire protection again loss of life in hotel or motel accommodations.

Governor SANDERS. I believe you are correct, Senator, in the exercise of what we term and define as police powers. But I don't think that this would come forward within the category of the exercise of police powers, which I think these other items that you mentioned more generally come under.

Senator MONRONEY. Zoning is not quite a police power, and you can't take your private home in Atlanta and turn it into a motel or an eating place if it is zoned residential.

Governor SANDERS. That is correct.

At the same time they can't zone it into something else that you don't want it to be if you want to live in it as a home and you are living in it. They can't audaciously under the powers of the State make you operate as a motel.

Senator MONRONEY. They could put a garage right next to you.

Governor SANDERS. That may be, but it is on somebody else's property, not on your property.

Senator MONRONEY. No, sir; but that is a power of the State to effect. The argument I think that comes to us is the economics of this thing. This law of desegregation would affect the economics of the eating place or motel, and therefore the owner is fearful of desegregation because of his own investment. But we have that through State power. Even then the Federal Government has not invoked any powers of zoning and none of the police powers in regard to health that belong to us.

Governor SANDERS. Yes, sir.

Senator MONRONEY. We do invoke powers probably in interstate commerce in following that line, for example the interstate operation of a corporation, owned and operated in many States, and things of that kind, which can legitimately be brought I think under the interstate commerce clause. But that is going to be one of the hard ones that we are going to have to try to interpret.

Senator Scott?

Senator SCOTT. Governor, I have read your statement with interest. Certainly it is most carefully and thoughtfully prepared.

In trying to understand the principal point that you are making, may I first ask, is it not a fact that some unrest does exist among some of the people of Georgia regarding the present situation?

Governor SANDERS. Yes, sir. I think that is a fair statement. I think there is some unrest among some of the citizens of Georgia. I don't think you could confine that unrest to any specific race. I think there is some concern and unrest among the citizens of my State. I am sure that that is true in all States.

Senator SCOTT. Yes, as well as in many other States.

Governor SANDERS. Yes, sir.

Senator SCOTT. That unrest being what it is, do I understand your testimony regarding both the action of the Federal and State governments, that you are in favor of the status quo?

Governor SANDERS. No, sir.

Senator SCOTT. You do not favor any changes whatever in this situation?

Governor SANDERS. I have not stated that, Senator.

Senator SCOTT. I knew you hadn't, but I wanted to go further.

Governor SANDERS. My testimony is that I favor a continuation of the voluntary approach by the citizens of the States that have disagreements, or have differences, or have problems that concern us all.

And I feel like by the implementation of the Federal law of this kind that you are going to build a barrier immediately between those groups of people in which there are differences and that this barrier will remain and that the people will then look to the Federal Government to enforce it, to implement the law, and they will do everything that they can, those that do not wish to comply with it will attempt to practice evasion.

I think, if I could analogize the situation that I am really concerned about, it is that I think of a mother and her child. I think that the relationship between the mother and child, of course, is so close because of the experience of birth, and I think that in the situation that exists today in Georgia, as well as the other States of this Nation, in which

there is this problem of racial relations and all, that if the people who live in the community with the problem are a part of the labor in bringing about a sense of mutual respect and understanding, that this gives them something in which they can base this attitude of respect; this gives them a feeling that they have been a part of something with which they feel good and in which they feel like it has been constructive.

If, on the other hand, you prevent those people from doing this by simply allowing this matter to be shot into a court of law or implemented by an agency of the Federal Government, the Attorney General, then you will not have this same experience that has been in my State and which has brought about what we think is tremendous progress and which I am sure will continue to be brought about in my State.

I might say just before coming over here—the Senator may be eminently familiar with this—I was interested, on the NBC news, one of the major broadcasting systems, to listen to an interview of Louis Harris, who is a political pollster, a man who frankly I used in my own State when running for Governor, and to listen to an interview that he gave this morning about a survey that he had made among the Negro community, and which I think there were some 11 leaders from Atlanta that were interviewed. He pointed out that 73 percent of all those interviewed admitted that progress had been made and that it will continue to get better within the next 5 years, and that only 2 percent of those interviewed said that they felt like it would get worse.

So what I am saying is that we are in the process of doing the very thing that you feel that perhaps should be encompassed in this law, and I think if you impose this law upon the people who live in my State, that instead of making more progress, you are going to find that progress will be retarded.

Senator SCOTT. I didn't see this poll.

Was Mr. Harris seeking to make the point that only 2 percent of the Negroes are dissatisfied with their present state in this country.

Governor SANDERS. I don't think he sought to make that point in there. I think this particular part of the policy was simply on the basis that 2 percent of them felt like this was not going to be progress made in this field in the next 5 years, not on the basis that they were dissatisfied with this country in any way, but that they felt like progress has been made and that it would get better in the next 5 years.

Senator SCOTT. I notice that part of your testimony referring to the language of the constitution of Georgia, article 1, section 1, paragraph 2, quoting: "Protection of the person and property is the paramount duty of government and shall be impartial and complete."

Governor SANDERS. Yes, sir.

Senator SCOTT. How do you interpret "impartial"?

Governor SANDERS. I think that the ownership of property should be impartial, and I think that if I own a piece of property and you own a piece of property, that as far as that right of ownership, dominion, and control over it, it ought to be impartial. I don't think that you should force me to publicly accommodate anyone, in deference to the rights that I have to the ownership of my private property. I think that the framers of the constitution of Georgia, when they expressed themselves in the manner that they did, that they considered a person and its property inseparable. And I think that is why they used the language in that way.

Senator SCOTT. I understand that the law of Georgia, like the law of my State, is based upon the common law. As far as I know, the common law pertaining to innkeepers as to holding out their right to serve permits them to refuse to serve disorderly persons or persons of evil disposition, or some such phrases.

I don't believe the common law permits the innkeeper to refuse service on the basis of color. Do you think that under the common law all persons of good disposition and good behavior and good will are entitled to equal service in an inn or public house, to get back to the old term?

Governor SANDERS. Senator, No. I don't think that this country bases its law on the common law of England. I think much of it comes from the common law. But I don't think that this country was established under the same principles as the common law of England.

I frankly feel like what we are talking about is the American law as it is outlined in our Constitution, and I think perhaps in order to answer your question about innkeepers it may well have been under the common law that innkeepers were given some special dispensation or right by the government in that day and time, like you now give people in airlines and bus terminals and things of that kind, and perhaps there was a reason for it. But, I don't think we should use that as a premise for changing what I consider to be the American law and the American way of life, which I think holds private property as being a right that should not be trampled upon by others.

I think that is one of the reasons, as I pointed out, that our forefathers came to America. I think that is one of the reasons why the English country and perhaps the country that they now have are not the powerful nation that they were in the day and time of the height and popularity of some of these things that they still adhere to.

I say our way of life is a little different, and I am not in any way saying that we discriminate. But I do say that when we talk about imposing the rights of one individual on the rights of another, we must maintain that property right, the ownership of private property, and I don't think you can destroy private property by creating a new right for any other citizen regardless of what his race, color, or creed may be.

Senator SCOTT. Under the article in the constitution of Georgia cited, would you agree that under State law the legislature could, if it would, provide for equal treatment in public accommodations within the State of Georgia?

Governor SANDERS. I believe, Senator, that this has been passed on possibly by the supreme court in some other State. I think it would be within their prerogative. But I personally don't think that the legislature should do it.

I think that they should weigh in the balance which is the best for the people that they serve, and my opinion is that the rights of private property are human rights just as much as the right to be accommodated publicly. If we take away private property rights, the right to operate your business, control it, just like the right to protect your home, I think we are destroying a far more basic right than the right that perhaps we are attempting to eliminate in the course of this legislation.

Senator SCOTT. The right of property includes the right to buy property, as well as the right to sell it, doesn't it?

Governor SANDERS. Yes; I agree with that.

Senator SCOTT. And it includes the right to buy food does it not, as well as the right to sell food?

Governor SANDERS. Yes, sir.

Senator SCOTT. Then, what would be your solution if a Negro citizen in interstate commerce were traveling 100 or more miles and was unable to find a place which would extend to him food and lodging? Is there any burden on the conscience of Georgia regarding that?

Governor SANDERS. Yes, sir. I think frankly—in the first place, I don't think that that situation exists in Georgia. I would like to make that point clear and put it in the record, that I do not believe that this is the situation in my State. I don't think that my State would ever come to that point. I think that any citizen who comes into my State can buy food, can find accommodations, and can receive courteous treatment.

But, I do think if it got to be such a problem on the eyes and minds of the Federal Government, and if you felt like this was something that was being done, then let the Federal Government set up its own establishments in which you think everybody could participate, if you think this is a problem.

I think it would be far less harmful to do that, to have the Federal Government accommodate whoever in whatever way they felt people should be accommodated, rather than to go over and destroy what this individual citizen considers to be his own property rights.

But, I don't think in Georgia you will ever have the problem that you outlined, and I simply mention this in the way of passing for your information.

Senator SCOTT. You are suggesting federally established or federally erected places to eat and sleep. Aren't you running counter not only to your belief in the rights of the States, but also to the Declaration of Independence, "He hath set swarms of office holders upon us," in the words of the charge against George III?

Governor SANDERS. Academically I can see where perhaps that would be running counter to it. I think that what we are trying to do is we are trying to reach the hearts of men and women in this Nation. I think the proper way to reach that is through a spirit of cooperation and voluntary action. I don't believe it is through either my suggestion that we have Federal establishments if you felt like you had to have some, or your suggestion that we have Federal force or intimidation upon the rights of private people.

I just think that we are absolutely traveling down the wrong road at the wrong time in trying to solve the problem that cannot be solved through the process of enactment of a law. It is a moral issue, and I don't believe that you legislate morality.

Senator SCOTT. How do you interpret at each of the meetings at which you and I appear, the phrase in the oath of allegiance to the flag, "One nation under God, with liberty and justice for all"? Are you satisfied that where some parts of our people are denied opportunity equal to other parts, that this means liberty and justice for all?

Governor SANDERS. I stated in my inaugural address, Senator, and I rested in the release that I made shortly after our President made his speech over television saying that he thought we had a moral crisis in this country, that everyone should have equal opportunities, that our

laws must be applied equally to all citizens, that no one, however, is entitled to special rights or privileges or to transgress the rights of others.

I feel like that what you are doing by this legislation is setting up a special right or a new right that would give one group or one citizen of this Nation a right superior to the existing rights that now—property rights that are now vested in all of them. And I feel like this legislation does not accomplish what I think the distinguished Senator and I both feel like should be accomplished in the eyes and hearts of the men and women of America.

Senator SCOTT. Governor, you mentioned the inaugural address. My memory may be a little faulty but I recall the President saying something having the effect or meaning of this. Ask not what you can do for the voters, but ask rather what the voters can do for you. I hope that was not in the inaugural address.

Governor SANDERS. No; I was speaking of my inaugural address, not the inaugural address of the President of the United States.

Senator SCOTT. You were at the Governors' conference weren't you?

Governor SANDERS. Yes; I was, Senator. I missed your Governor.

Senator SCOTT. As matters eventuated, our Governor seems to have been the wisest of all in staying home, tending to business in the closing days of the legislature.

Governor SANDERS. I don't dispute that.

Senator SCOTT. And thereby missed a circus while attending to business. I was pointing rather toward the decision to abolish the resolutions committee. You voted for that decision, and you favored it, did you not?

Governor SANDERS. Yes; I did. I happened to be a member of that committee.

Senator SCOTT. You made some statement about it as I recall.

Governor SANDERS. Yes, sir; I did. Would you like me to respond to it?

Senator SCOTT. Yes; I would like to hear your statement.

Governor SANDERS. The statement I made, Senator, was that I am a new Governor and, of course, I had not the experience of other Governors who had been in office longer than I have, and who had participated in Governors' conferences. But I was of the opinion that the Governors' conference was not a legislative body, and I felt like we had elected Senators and Representatives like you gentlemen in the U.S. Congress to legislate on those matters that were pending before Congress, and I felt like the Governors' conference was a place where we should have a free and mutual exchange of ideas, where everyone should be able and willing and free to speak on any matter that he wanted to speak on, and to express himself in any way.

But, I did not believe that we should at every point in the proceeding then try to legislate by resolution through the activities of the Governors of the States because, if we did, it would seem to me that we would certainly be preempting what the people of our States had done when they were posed anew with the rights and privileges to come to the U.S. Congress and pass upon legislation that was pending before you.

I had no objection and have no objection to the free expression of speech, which was very freely given by all Governors down there. I did oppose the idea that they were going to legislate and that the con-

ference of all the Governors would be bound by whatever the action was taken by that group.

Senator SCOTT. In other words, you felt that their decision of the Governors, by that majority vote, was wise and proper in deciding not to go into any resolutions on civil rights?

Governor SANDERS. Yes; I did. I felt like whatever the expressions were individually on this subject were perfectly proper. I felt like whatever their respective legislatures did, and whatever their Senators and Congressmen did, was perfectly proper. But I did not feel like the Governors' conference, based on the organization and the rules that they have there, was set up for that purpose.

Senator SCOTT. And you felt, I suppose, as many of the other Governors who voted with you, that they are of the same opinion?

Governor SANDERS. Yes, sir; I feel like many of them were of the same opinion.

Senator SCOTT. Thank you very much, Governor. That is all, Mr. Chairman.

Governor SANDERS. Thank you, Senator.

Senator MONRONEY. Senator Cannon?

Senator CANNON. I have no questions.

Senator THURMOND. Mr. Chairman.

Senator MONRONEY. Senator Thurmond.

Senator THURMOND. May I introduce some of the members of the Georgia delegation who are here with the Governor?

Senator MONRONEY. Indeed you may.

Senator THURMOND. I believe we have here this morning with the distinguished Governor of Georgia the following Members of the House of Representatives of the Congress. The Honorable John J. Flynt, the Honorable John W. Davis, the Honorable Robert J. Stephens, the Honorable J. Russell Tuten, the Honorable Carl Vinson, the Honorable Phil Landrum.

Are there any other members of the Georgia congressional delegation here? If so, raise your hand. I would like to introduce you.

I called all that we see. I also would like to say that the Governor is accompanied by Mr. Douglas Minard, his executive secretary; Mr. Robert R. Richardson, his chief of staff; Mr. Henry G. Neill, assistant attorney general.

Are there any others?

Governor SANDERS. Yes, sir; I had better say I am accompanied by my wife.

Senator THURMOND. I was saving the best for the last—your beautiful and charming wife.

Governor SANDERS. Thank you. I want to thank the members of the committee for the very kind and very courteous way in which I have been received. I am very appreciative.

Senator MONRONEY. We appreciate your enlightening statement and also the accompaniment of the delegation from Georgia that we respect so highly and who have performed so strongly in all matters affecting our National Government.

Governor SANDERS. Thank you.

Senator MONRONEY. The next witness will be introduced by one of our most distinguished colleagues.

Senator MONRONEY. The committee will stand in recess until those having to leave will clear the room.

(Recess.)

Senator MONRONEY. The Commerce Committee will resume its hearing.

It gives me a great deal of pleasure to present one of America's most distinguished U.S. Senators, a great leader in all matters both judicial and military, and a Senator that we hold in warmest respect, Senator John Stennis, who will introduce our next witness.

Senator STENNIS. Mr. Chairman, I certainly do thank you.

It is a privilege to be here with you and your fine committee.

It is my privilege, too, to present to you the attorney general of Mississippi, the Honorable Joe Patterson, whom I haven't had a chance to speak to this morning under the pressure of this heavy calendar that we all have.

Gentlemen of the committee, Mr. Patterson has served with outstanding distinction as a member of the Bar of Mississippi for a long number of years, being a very fine trial lawyer and one I call a real courtroom lawyer, with a vast background of experience.

He has been assistant attorney general of our State and has served since 1956 as Attorney General. He is a man of experience and mature judgment, and a fine knowledge of the Constitution and constitutional government.

I have not read this statement but I am sure his testimony will be of value to this committee.

I am delighted to present him to you.

Senator MONRONEY. Thank you very much, Senator Stennis.

We are very happy to have you, General Patterson. Be seated and proceed in your own way.

If you wish to insert your complete statement in the record and choose to skip some of it, this would be agreeable. You may proceed in any way you desire.

STATEMENT OF JOE T. PATTERSON, ATTORNEY GENERAL OF MISSISSIPPI

Mr. PATTERSON. I would like the full statement to go in the record.

Senator MONRONEY. We will insert the full statement in the record and you may read it, and if you desire to skip a paragraph here and there, we will consider it as though read.

Mr. PATTERSON. I am deeply grateful for the kind remarks that the distinguished Senator from my State has seen fit to make with reference to me. It goes without saying that is what we in Mississippi think of our distinguished Senator.

I am also deeply grateful to the chairman and members of this committee for permitting me to come before it on this most important question now pending before the Congress.

Having been privileged many years to work in the office of the distinguished Senator from my State, I can fully appreciate the many hours and patience and time that the committees take in listening to those who come before it. I sometimes think that the press does the Congress the very great injustice by making it appear that the Senate is a debating society and more or less of a country club instead of a

working organization and putting in the many, many hours that I know that they put in dealing with the serious problems of our Nation.

I should like to make some general observations about the setting and background against which this proposed legislation is being considered, then briefly discuss the unconstitutionality of this bill, and then discuss a few of its pertinent sections.

We seem to be in the grip of a midsummer madness; its chief symptom is the delusion that we can better the lot of one segment of our people only by destroying traditional rights and privileges enjoyed by all. In the words of Edmund Burke, this is one of the "delusive plausibilities of moral politicians."

No more lucid and eloquent statement of the consequences of the kind of thinking underlying this legislation has been made than that by a great jurist, not a southern judge, but Judge Leonard P. Moore, of the U.S. Court of Appeals for the Second Circuit, and a citizen of New York City. In his able and compelling dissenting opinion in the New Rochelle school case, *Taylor v. Board of Education of New Rochelle*, 294 F. 2d 36, 40, Judge Moore made the following observations:

However, beneath a banner emblazoned with the word "constitutional rights" and "segregation," is a decision which in its far-reaching implications, in my opinion, may seriously affect the school systems of this country. Our future is closely linked to our educational program. But more closely connected with our heritage are such concepts as individual freedom, democratic elective processes, States rights, and equal protection of our laws for all. Too easy is it to march behind a banner bearing such slogans. History records that the populace, singing and cheering, once marched behind a certain gigantic horse of wood. It seemed harmless enough at the time. History has a way of repeating itself.

After discussing the evil results of the Federal courts assuming day-to-day control and supervision over the public schools of this country, Judge Moore then said:

There will be those who will charge that these suggested possibilities are gross exaggerations and that "It Can't Happen Here." But if Federal courts undertake the operation, directly or indirectly, of the public schools, what will be the end result? Recent history has noted other government operations originally justified because business improved and the trains ran on time.

I hope and trust that the Congress will not encourage our people to be deceived by this Trojan Horse of discord and dissension, which, like the horse of old, can only serve the purposes of the common enemy.

Another current misconception is that this legislation should be enacted in order to cool the passions of an incipient mob, the self-appointed spokesmen for which have promised to use violent means to achieve their ends if this Congress fails to immediately give them everything they demand. This is contrary to the statement of the Supreme Court itself in the Little Rock school case, *Cooper v. Aaron*, 358 U.S. 1, 3 L.Ed. 2d 5 (1958) that constitutional rights cannot be denied because of the threat of mob action.

I do not believe that this is the proper atmosphere in which the greatest deliberative body in the world should consider such vital legislation, with threats of 100,000, 200,000, or 300,000 sit-in demonstrators in the Halls of Congress. The present Attorney General of the United States only a few months ago in dealing with my State said such would not be tolerated. We have a double standard of law and order under those two gentlemen's ideas of law and order.

Will they take 30,000 troops and see that such doesn't happen in Mississippi, and at the same time say such is permissive and all right in Washington, D.C.?

At the outset, let us clear up one misconception: Some of those who favor this bill say that the chief question at issue in this legislation is "property rights versus personal rights," and that those of us who oppose this bill exalt the former over the latter. This is simply untrue. It is only a play on words to confuse the issue.

When a private business proprietor decides not to serve or accommodate a person, he is in essence exercising a personal right, not a property right. The right of a citizen to the free use of his own property and to decide who shall come on his premises is one of our most priceless personal rights, and has been so recognized since the founding of the Republic.

This bill, if enacted, would impair and effectively destroy, these personal rights of hundreds of thousands of people in this country who happen to own an establishment such as a candy shop or a billiard parlor.

It is these presently vested personal rights which the Congress is now called upon to weigh against the so-called right to demand and receive service or accommodate at most of the privately owned business enterprises in the Nation.

This so-called right which is being thrown in the balance against our traditional American personal right of the control and ownership of private property is unknown to our Federal law, and has only recently been asserted as a Federal right.

There is another misconception which I would like at the outset to refute. There are those who say that our opposition to this bill is motivated by a desire to deny our colored citizens their legal and constitutional rights. Speaking for myself and, I am confident, for the overwhelming majority of the people of my State, this assertion is absolutely untrue.

On the basis of uncontroverted facts, I believe that our State, and particularly its court system, has been most zealous in protecting all of the legal and constitutional rights of all of our citizens, white and colored alike.

This misrepresentation was disposed of in eloquent fashion by the late, great Justice Julian P. Alexander, of the Mississippi Supreme Court, in his opinion in the case of *Patton v. State* (1949), 207 Miss. 120, which involved appellate review of a murder conviction of a Negro citizen. In discussing the contention that the conviction was the result of racial bias or prejudice, Judge Alexander cited a number of cases in which the courts of Mississippi has safeguarded and protected the rights of our colored citizens, and then said:

We cite these examples neither defensively nor apologetically, nor under any sense of need for justification. On the other hand, we are often reminded that our duty encompasses a concern for the rights of those citizens over the fresh earth of whose graves the blind striding of hot tempered zeal finds no stumbling in its frenzied rush to the aid of one to whose violent act this new mound is an accusing monument. (207 Miss. 134.)

It bears out what Mr. J. Edgar Hoover has so often written and said in recent years, in that the constitutional rights of those who would violate the law seem to be given all consideration, while the constitutional rights of those who would abide by the law, the con-

stitutional rights of those who have suffered as a result of an ignoring of their constitutional rights by the law violator, are wholly ignored.

We are not motivated by a desire to deny this segment of our population any of its legal or constitutional rights, and we believe that the Congress should have the same regard for the rights of the great mass of people of this Nation.

As to the proposed congressional finding in section 2(h) of S. 1732 that the actions of private business owners in excluding persons because of race, color, religion, or national origin is State action and falls within the ambit of the Equal Protection Clause of the 14th amendment to the Constitution of the United States, this is clearly an invasion of the judiciary power. The Congress is no more competent to make this finding than it would be to make a finding that this bill does not violate anyone's rights secured by the fourth, fifth, or sixth amendments of the Constitution. For, it is elemental that in our tripartite system of government, it is the function of the judiciary to interpret the Constitution and laws of the United States, and the function of the legislative to make the laws.

I might say that it is understandable, however, why the Congress might feel free to invade the province of the courts, since the Federal courts have, especially in recent times, usurped the powers of Congress and undertaken to make law, since the highest court of this land has in several instances attempted to take it upon itself to say what this very committee might inquire into, or what not. However, I say that the American Congress has its way to cope with that situation, and such legislation is not the answer to it.

In any event, it is clear that this bill would not be "appropriate legislation" enacted to implement the "equal protection clause" or any other provision of the 14th amendment.

This precise question was decided by the Supreme Court of the United States in 1883 in the famous *Civil Rights Cases*, 109 U.S. 3, 27 L.Ed. 835. In those landmark cases, the Supreme Court held that legislation, the operative language of which was very similar to the bill here under scrutiny, was unconstitutional, and unauthorized by the 14th amendment. In 1875, a reconstruction Congress decided to pass another "civil rights package." The first section of that act, which was voided by the *Civil Rights Cases*, read as follows:

That all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude.

That Court, composed of judges who were thoroughly familiar with the history and purpose of the 14th amendment, discoursed with great clarity on the meaning and operation of the amendment and its applicability to this type of statute. Some of the language of this opinion is so pertinent here that I believe it will be helpful to quote excerpts therefrom:

The 1st section of the 14th amendment, which is the one relied on, after declaring who shall be citizens of the United States, and of the several States, is prohibitory in its character, and prohibitory upon the States. * * * It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject-matter of the amendment. * * * It does

not invest Congress with power to legislate upon subjects which are within the domain of State legislation; but to provide modes of relief against State legislation or State action, of the kind referred to. It does not authorize Congress to create a code of municipal law for the regulation of private rights; but to provide modes of redress against the operation of State laws, and the action of State officers executive or judicial, when these are subversive of the fundamental rights specified in the amendment. Positive rights and privileges are undoubtedly secured by the 14th amendment; but they are secured by way of prohibition against State laws and State proceedings affecting those rights and privileges, and by power given to Congress to legislate for the purpose of carrying such prohibition into effect; and such legislation must, necessarily be predicated upon such supposed State laws or State proceedings, and be directed to the correction of their operation and effect. * * * Such legislation cannot properly cover the whole domain of rights appertaining to life, liberty, and property, defining them and providing for their vindication. That would be to establish a code of municipal law regulative of all private rights between man and man in society. It would be to make Congress take the place of the State legislatures and to supersede them. It is absurd to affirm that, because the rights of life, liberty, and property, which include all civil rights that men have, are, by the amendment, sought to be protected against invasion on the part of the State without due process of law, Congress may, therefore, provide due process of law for their vindication in every case; and that, because the denial by a State to any persons, of the equal protection of the laws, is prohibited by the amendment, therefore Congress may establish laws for their equal protection.

In discussing section 1 of the Civil Rights Act of 1865, and holding it void, the Court in examining the foregoing constitutional principles and applying them to that legislation, disposed of that legislation in the following manner:

In other words, it steps into the domain of local jurisprudence, and lays down rules for the conduct of individuals in society toward each other, and imposes sanctions for the enforcement of those rules, without referring in any manner to any supposed action of the State or its authorities.

The truth is, that the implication of a power to legislate in this manner is based upon the assumption that if the States are forbidden to legislate or act in a particular way on a particular subject, and power is conferred upon Congress to enforce the prohibition, that gives Congress power to legislate generally upon that subject, and not merely power to provide modes of redress against such State legislation or action. The assumption is certainly unsound. It is repugnant to the 10th amendment of the Constitution, which declares that powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

This is not corrective legislation; it is primary and direct; it takes immediate and absolute possession of the subject of the right of admission to inns, public conveyances, and places of amusement. It supersedes and displaces state legislation on the same subject, or only allows it permissive force. It ignores such legislation, and assumes that the matter is one that belongs to the domain of national regulation. Whether it would not have been a more effective protection of the rights of citizens to have clothed Congress with plenary power over the whole subject, is not now the question. What we have to decide is, whether such plenary power has been conferred upon Congress by the 14th amendment; and, in our judgment, it has not.

This case is still the law, and has been followed by the U.S. Supreme Court and the inferior courts down to the present day. One of the most recent cases which restated this doctrine is *Shelley v. Kraemer*. 334 U.S. 1, 92 L. Ed. 1161 (1948). There are those who tell us that court decisions are not merely "the law of the case," but are also "the law of the land," and that we are all under a solemn duty to adhere to all court decisions.

If one did not know the political factors involved, it would be surprising to hear persons, including those in high places in the executive department, such as the President and the Attorney General, who

admonish us to obey court decisions as "the law of the land," overtly and covertly encouraging and applauding those who would disobey and disregard the "law of the land" as stated in the *Civil Rights Cases* and all of the other cases following it to this day.

In that regard, I was shocked to read a news report dated July 2, 1963, pertaining to the appearances before this committee of the chief legal officer of this Nation, the Attorney General. He was quoted as saying that he "recognized" that "the 1883 decision has not been overruled and remains the law of the land." Nevertheless, he claimed that the Supreme Court "would reach the proper conclusion and render it constitutional now." Of course, the "proper conclusion" is the one favored by those who would place the ownership and control of property at the whim and caprice of the Government.

What is the basis for this startling statement? The Supreme Court itself has given no evidence of repudiating the longstanding doctrine of the *Civil Rights Cases*. Does the gentleman have some inside information? Has he reached such state of omnipotence that he can determine future decisions of the Supreme Court of the United States before it even gets to them? At any rate, we can only accept this statement as rank conjecture and speculation.

As to section 4 of the act here under consideration, it is clearly outside the scope of the 14th amendment, because that section prohibits certain acts by persons, whether acting under color of law or otherwise, and all of the applicable cases have held that only State action is prohibited by the amendment. See *Civil Rights Cases; United States v. Cruikshank* (1876), 92 U.S. 542, 23 L. Ed. 588; *Virginia v. Rives* (1880), 100 U.S. 313, 25 L. Ed. 667; and *Ex Parte Virginia* (1880), 100 U.S. 339, 25 L. Ed. 676.

It is equally clear that this proposed legislation cannot be validated as an exercise of the commerce power conferred upon Congress by article I, section 8, clause 3 of the Constitution.

None of the cases deciding the breadth and scope of the commerce power have even by implication held that that power would support such an act of Congress as the one here under consideration.

To the contrary, this question was raised and presented to the U.S. Court of Appeals for the Fourth Circuit in the case of *Williams v. Howard Johnson's Restaurant* (4 Cir. 1958), 268 F. 2d 845, and it was there squarely held that the commerce power did not extend to the operation of business accommodations. This, I observed, had been discussed a few minutes ago.

In that case, suit was brought against the owner of a privately owned restaurant for injunctive relief and money damages by a Negro who claimed that he had been refused service in the restaurant solely on account of his color. The complaint alleged that this exclusion resulted in a violation of the civil rights statutes, interference with the free flow of commerce and a discrimination against a person moving in interstate commerce. Significantly, the complaint alleged that the restaurant was located on one of the main interstate highways in the Nation and that it served interstate travelers, and that, because of these facts, the restaurant constituted an integral part of interstate commerce. Thus, the broad constitutional scope of the commerce power was invoked as a grounds for relief.

The U.S. district court dismissed the complaint, and, on appeal the fourth circuit affirmed the judgment of the district court.

In discussing the contentions made under the commerce clause, the fourth circuit said:

We think, however, that the cases cited are not applicable because we do not find that a restaurant is engaged in interstate commerce merely because in the course of its business of furnishing accommodations to the general public it serves persons who are traveling from State to State. As an instrument of local commerce, the restaurant is not subject to the constitutional and statutory provisions discussed above, and, thus, is at liberty to deal with such persons as it may select (268 F. 2d 848).

The above holding in the *Williams* case was followed by the fourth circuit in *Slack v. Atlantio White Tower System* (4 Cir. 1960), 284 F. 2d 746, which involved the same issues.

The holdings by the fourth circuit in *Williams* and *Slack* are in harmony with an unbroken line of decisions defining and delimiting the commerce power, and clearly disposes of the question of the constitutionality of this Public Accommodations Act insofar as it is based on the commerce power.

As to specific sections of S. 1732, section 4 and subsection 5(a) of the act brings to culmination the assault on our last basic guarantee of personal rights, the right to trial by jury. Section 4 prescribes certain conduct, but does not make it criminal. Section 5(a) provides for the granting of injunctive relief directed against any person who has engaged in, or may engage in, the prohibited conduct. The action may be instituted by the aggrieved person or, under certain conditions, by the U.S. Attorney General, in the name of the United States.

In this manner, the right of the peanut vender or the operator of a soda fountain to a trial by jury will be effectively destroyed, for it is basic that the power to punish for disobedience of a court order or to compel obedience thereto is inherent in the right to issue the order. The contempt power is coextensive with the power to issue an injunction.

This proposed iniquitous legislation is but an acceleration of the recent totalitarian trend to degrade and diminish the right to a trial by jury. These tendencies are not unique to the United States, or to Hon. Robert F. Kennedy. Both recent and ancient history tell of similar efforts made in other times and at other places, from the Spanish Inquisition, to the Courts of Star Chamber, to the Irish Act of Attainder of 1688, to more modern and more sinister regimes. In this connection, we need only mention Nazi Germany and the Iron and Bamboo Curtain Communist countries. It is this evil which the barons at Runnymede sought to curb and which the framers of our Constitution sought to destroy by the use of the following clear and unambiguous language couched in absolute terms embodied in the sixth amendment:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

This bill provides for the punishment of citizens in a way not contemplated by the founders nor countenanced by the Constitution. This is highlighted by the fact that the act imposes no criminal sanctions on the prescribed conduct, and that the only means of en-

forcement is the use of the contempt power. This would indeed be government by injunction, the very thing that many of those who advocate this bill have fought out before the Congress many years ago, and said that it is wholly unfair.

I refer to the labor unions who many years ago came before the Congress and brought about the passage of the Norris-LaGuardia Act, I believe it was, which rendered them immune from the very thing which they come in now and urge passage of. But, of course, they don't recommend repeal of that law which was passed for their benefit.

To one acquainted with the aims, objectives, techniques, and tactics of the present national administration, it is clear that this part of the act was drafted, and is being advocated, for the express purpose of making further inroads on this last bastion of the liberty of the people. I personally know that the ancient and honorable phrase "trial by jury" is anathema to the present leadership of the Department of Justice.

Section 5(e) of the bill has ominous overtones. It provides that before the Attorney General initiates an action, he shall utilize the services of any Federal agency or instrumentality which may be available to attempt to secure compliance by voluntary procedures, if in his judgment such procedures are likely to be effective in the circumstances.

Obviously, the Federal Bureau of Investigation, the Internal Revenue Service, the Interstate Commerce Commission, and all of the other Federal regulatory agencies, and even the Armed Forces of the United States, come within the meaning of "any Federal agency or instrumentality." These powerful forces would be at work to compel the recalcitrant shopkeeper to "voluntarily" knuckle under. They would doubtless be effective in the circumstances. To consider this possibility is not to engage in idle speculation or indulge in fearful fancies. For we have recent experiences to inform us of the type of coercive action the present administration deems effective.

The contributions made by the drug industry to the Cuba ransom fund at the urging of the heads of the Tax Division and Antitrust Division of the Department of Justice; the use of the full armory of Federal might, ranging from the Defense Department to the Federal Bureau of Investigation, to Federal regulatory agencies, plus the threat of congressional investigations, to persuade the steel companies to hew to the line; and the seizure by agents of the Department of Justice of television films of a speech made by Gov. George Wallace before a joint session of the Mississippi Legislature in an effort to build a political dossier on a chief executive in official disfavor, all illustrate what those in power deem to be "effective procedures."

I might point out that right now, in my State, there are pending cases wherein the Department of Justice charges the use of economic pressure and says that the use of economic pressure is violative of constitutional rights and therefore is asking judgment of courts charging public officials with doing such. They went down into the State of Tennessee. They charged bankers and farmers with the use of economic pressure, which brought about deprivation of constitutional rights. And yet they have the temerity, this gentleman does, particularly, the U.S. Attorney General and the President, they have the temerity to come to the Congress to give to them the very rights

of bringing economic pressure which they have said time and time again is violative of constitutional rights.

This section would give the color of legality to the efforts of the "new conformists" of this administration to impose an alien way of life upon an unwilling American people by all of the coercive sanctions at the disposal of a modern Government, and would violate the basic tenets of our American democracy.

In conclusion I think we might well paraphrase and ask the question: Upon what meat has this little would-be Caesar fed that he would grow so great and powerful over the life and activity of every American citizen?

The answer is obvious. He has tasted of the meat of lawful—and in many instances unlawfully usurped—power over his fellow man. The U.S. Attorney General is a classic example of that which we have often read and heard when it is said that a great man is humbled with power, while on the other hand power vested in the hands of a little man serves only to make him an intolerable tyrant.

The people of Mississippi, during the past 2½ years, have borne the brunt, and I might add should be an example to the rest of the Nation, of vindictive use and abuse of power vested in the executive and judicial branches of the Government, and particularly at the hands of the President and the U.S. Attorney General. The power sought to be vested in the U.S. Attorney General by this proposed legislation would place in the hands of a U.S. Attorney General who has demonstrated to the Nation the ruthless leaders who are sponsoring and promoting racial unrest.

I make this charge because I know as a matter of fact that down in my State, agents and representatives of the U.S. Department of Justice are ever present where there is racial trouble, and instead of working with the duly elected and responsible officials in an effort to prevent violence and disorder, these agents of the U.S. Attorney General actually aid, abet, and encourage violation of State laws and municipal ordinances, assuring the agitators that if and when arrested the Department of Justice will come to their rescue.

The President, the U.S. Attorney General, and members of their family, have been made immune from the hardships and intolerable conditions that their proposed legislation would impose upon the rank and file of people in America; their vast inherited fortune will protect them from the hardships they would impose upon others.

Such is the identical attitude of the ruthless monarch of old, the very thing the early colonists came to America to escape from, and finally went to war to get out from under.

I know that this committee, the Senate, and the Congress will carefully study this entire bill and all of its component parts, and I am confident that as a result of this calm and dispassionate study and deliberation, this proposed legislation, which would further diminish the personal rights of all Americans, will be rejected.

May I say once again, I thank the members of this committee for such a courteous and patient hearing.

Senator MONROE. Thank you, Mr. Patterson.

I must strongly disagree, of course, which is an American right and privilege of doing, with the words leveled at the Attorney General and the President of the United States for being respon-

sible for the racial violence and unrest that we have had. Of course, I recognize that you are entitled to your opinion the same as I am to mine. I cannot, however, let this statement go by without expressing my disagreement in that regard.

Senator COTTON?

Senator COTTON. Mr. Attorney General, you have quite properly addressed your arguments to the particular bill which is before this committee. As you, of course, know, this is one of a seven-point program of the administration before various committees of the Senate and the House, a program for the entire civil rights question.

I don't want to seek to lead you afield from the point, but whatever bill goes into the Senate, whether it is this bill from this committee or another bill from another committee, the whole program will be immediately—I assume, I prophesy, as much as a Senator can that anything will take place—attacked.

Therefore, I wonder, are you in opposition or in agreement with some of the other points of this program other than this matter of seeking for Federal control of public accommodations, privately owned? For instance, the measure which tends to speed up action on the part of the courts in enforcing voting rights of the Negro. How do you feel about that?

Mr. PATTERSON. I am just as opposed to that as I am to this, Senator.

Senator COTTON. Why?

Mr. PATTERSON. Because it will not serve any good purpose. It will only add to the chaos and confusion that we now have. I still believe that the words of Thomas Jefferson are just as true today as they were when he said them:

The best governed people are the least governed.

I still believe that the States have the right to control their voting rights within the State. I consider voting a privilege conferred by the State and not an inherent right vested in anyone.

Senator COTTON. In your own State, are the Negroes tested by the same literacy and other tests to enable them to vote as are used in testing the white population?

Mr. PATTERSON. Yes, sir; they are.

Senator COTTON. So far as you know, they are strictly adhered to and impartially administered?

Mr. PATTERSON. Yes, sir. Irrespective of the charges to the contrary, Senator.

Senator COTTON. How long have you been attorney general of Mississippi?

Mr. PATTERSON. Since January 1956.

Senator COTTON. How long have you been an assistant attorney general?

Mr. PATTERSON. Six years prior to that.

Senator COTTON. Have you ever participated in, had cause to participate in, or know of action on the part of the attorney general or his assistants in Mississippi in enforcing the securing of the right of a Negro to vote which had been denied him?

Mr. PATTERSON. I have never, and I have never known of any attorney general of Mississippi, including myself, and those that I have known in the past, I have never known of any attorney general of my

State to go into any county of my State seeking to tell the registrars and the county board of election commissioners whose name should go on or come off of the election books, white or black.

Senator CORRON. Under the laws of Mississippi, does a person who is seeking to be registered as a voter, white or black, and is for any reason denied that privilege by the registrars, have any appeal to the courts or some other authority?

Mr. PATTERSON. He definitely has his right of appeal. If the registrar denies him, the door is open to him to the county board of registrars.

If they deny him, he can then move to the courts, all the way to the supreme court of our State, and then of course from there up to the Supreme Court of the United States if he so desires.

I might add that in all elections, in many election contests in my State, in years gone by, that very question has come up with reference to white voters, whether they were qualified or disqualified to vote.

But the attorney general of the State has never stepped in to interfere with those types of cases.

I might point out to the Senator in that regard here that I am sure the Senator has observed that since the Civil Rights Act of 1957, and later amended in 1960, isn't it passing strange that the U.S. Attorney General has not brought a single civil rights suit on the part of a single individual, except a colored citizen in the Deep South? I do not believe that any Member of this Senate thinks that the only place that civil rights are ever violated is concentrated in about two or three States of this Union and is directed only at one group of people.

Senator CORRON. I don't want to belabor this point, but under the Constitution the Federal Government does have certain powers in dealing with the rights of voters in elections in which Federal officials are elected; is that not true? Do you agree with that?

Mr. PATTERSON. I think it is very limited, sir, very limited. Our court has said there is no such thing as a Federal elector; that it is controlled by the State.

Senator CORRON. Then Congress can't be the judge of the validity of its own elections, of the election of its own Members?

Mr. PATTERSON. I think Congress—speaking off the cuff, now, of course—as I understand it it says that Congress is the judge of the election and qualification of its own Members.

Senator CORRON. So that as attorney general of Mississippi, you would deny the power under the Federal Constitution of the Federal Government to interfere in any way in establishing and enforcing the qualifications of voters in those who voted to elect the President and Vice President of the United States and Senators and Congressmen of the United States?

Mr. PATTERSON. I believe the Constitution uses the term "time," place, and amount" and restricts it to that.

Senator CORRON. So that now you have expressed yourself on the public accommodations of the proposal. You have expressed yourself on the proposal which has to do with further enforcement of voting rights. Another proposal is to extend for 4 years the Commission on Civil Rights. Are you opposed to that, too?

Mr. PATTERSON. Yes, sir.

And I think the record of the Civil Rights Commission, Senator, particularly with its activities in my State, which consist entirely of star-chamber proceedings, whereby they let anyone come before them and make any charge, and then bring it to the Congress as truth without attempting to go in and look behind the screen and see whether they are bringing to this Congress truth or not; frankly I personally know that in quite a number of instances they come to this Congress based on false statements with their reports that they turn in to the Federal Civil Rights Commission—I say it has served no good purpose whatsoever, not only in my State but nowhere else in the United States.

Senator COTTON. Another point in the program is to establish a Commission on Equal Employment Opportunity. What is your attitude on that point?

Mr. PATTERSON. I am unalterably opposed to it.

Senator COTTON. And another point is to establish a Community Relations Service. What is your attitude on that point?

Mr. PATTERSON. I don't think it would serve any good purpose. That is just another paternalistic step on the part of the Federal Government to go in and supervise the lives and activities of the people.

Senator COTTON. Another point in the program is to prevent discrimination in federally assisted programs. What is your attitude on that proposition?

Mr. PATTERSON. I am opposed to it. And as I stated a while ago, that is a classic example of this administration asking the Congress to give the authority to do that which it has branded in suits that it has filed as being unconstitutional and a violation of civil rights of others.

In other words, they are seeking authority to bring economic pressure, strangle a man to death if you don't knuckle under and do as we would have you do. They are seeking authority of law to do that. And we will bring punitive, economic pressure to bear on a State, on a business, on an individual.

I know not whether the great steel companies of this country were correct or not in wanting to raise the price of their products a few months ago. I don't know whether they were right in that or not. But if we believe in the American system of free enterprise, I say that this administration did a most frightening thing when they threatened economic pressure and strangulation against them if they did not knuckle under and set a price to suit them. If they can do that to the steel companies of America, they can do it to the corner grocery store and the corner drugstore.

They can even reach on down and do it to the lawyer and the doctor in the community, and the end result is absolute dictatorship from the Nation's Capital.

Senator COTTON. I confess, Mr. Attorney General, that I have a certain measure of sympathy with part of what you are expressing. It has long been my opinion that the Supreme Court uttered a great truth when it said whoever the Federal Government subsidizes, it controls. And I have long felt that when all the States of this Union—I won't say all, but most of the States of this Union—and in many instances, have rushed headlong to secure passage of Federal subsidies and benefits, and then have rushed with equal headlong rapidity to

get into the national grab bag and get their share, that the day would come when they would find that the more they subsisted on benefits of the Federal Government, the more subservient they would inevitably become to the Federal Government.

However, if Congress sees fit to pass an act furnishing money or credit or both for, we will say, a public housing program in Mississippi or in New Hampshire or in Nevada, and then if Congress sees fit to say that any State or community or municipality that practices racial discrimination is ineligible, that in order to have this housing money in the exercise of the housing—not any other field—they cannot have it unless it is open to all races without discrimination. Isn't that a power of Congress?

Mr. PATTERSON. I think any legislative body has the power in appropriating public funds to place restrictions or conditions on the terms of which it will be received and expended; yes. State legislatures do it. Certainly Congress could do it.

Senator COTTON. And those terms and restrictions can be applied at some time after the actual conferring of the money, can they not, by the Congress?

Mr. PATTERSON. Well, they probably could, Senator, but I think it would be a breaking of faith. If I borrow a thousand dollars from you under certain terms and conditions, and am setting about to meet those terms and conditions made at the time I borrowed it, then certainly you are doing me a great wrong to come along in the middle of it any say: I'm going to change your terms and conditions and make it far more difficult for you to pay it back; and maybe impose terms and conditions that I wouldn't have borrowed it from you to begin with at all.

Senator COTTON. Your point is excellent, but right now I'm trying to get at the power of the President.

Congress has conferred certain benefits, certain Federal aid as we call it loosely, for many programs, some educational, some housing, some for other purposes, and in many cases has refused to write into those programs an antidiscrimination amendment or clause.

Now the President comes along and asks that we retroactively write in a discrimination clause in all of those programs and give him the power to determine when and how it shall be applied.

Two questions: (1) is that legal; (2) is it just?

Mr. PATTERSON. Frankly, first I think it is an *ex post facto* law. Secondly, I think it is wholly unjust because it is breaking faith with the original borrowers and I know that you have many instances where people sought and received Federal aid under the original terms from which they received it. Had they known this would come to pass, or had what is now proposed been the law then, they would not have asked for it nor received it.

Senator COTTON. And do you believe it is a proper delegation of authority by the Congress to the Executive to permit him, if the act provided that, to give him discretion in whether or not to exercise this power to withhold?

Mr. PATTERSON. Senator, I think that is a most dangerous precedent to give to the President of the United States that kind of an economic stranglehold on citizens of this Nation. That applies to the citizens of anybody's State. I don't think any executive should ever be vested with that kind of power over the people.

Senator COTTON. But as a lawyer you think it is a constitutional delegation of power by the Congress to the President?

Mr. PATTERSON. Personally I do not. If I were a judge I would never so decide. But I am satisfied if I were sitting on the U.S. Supreme Court I would probably be in the minority of one.

Senator COTTON. You will pardon me for going so far afield. It so happens that I am a member of this committee who has, frankly, reservations about the bill before this committee which has to do with Federal control of privately owned public accommodations, so-called.

I have some reservations about the use of financial sanctions at the discretion of the President on the States with money conferred by the Congress and that has heretofore been under the control of the Congress. I have always, however, since I have been in the Congress, felt that the Federal Government does have a duty and an authority in enforcing the purely political rights of all citizens, including the Negro, and I have also felt that Congress has the power and the duty of seeing to it that there shall be no discrimination in jobs and employment in any project in which Federal funds are used directly or indirectly, and that covers a very wide area.

I state that. That is why I went into the other program. I find you completely and unalterably opposed to every point in the President's civil rights program. Is that a correct statement?

Mr. PATTERSON. Yes.

Senator COTTON. Thank you, sir.

Senator MONROE. Thank you, Senator Cotton.

Senator THURMOND?

Senator THURMOND. General Patterson, I want to commend you for an excellent statement.

On page 5 of your statement I observe that you make this statement:

The right of a citizen to the free use of his own property and to decide who shall come on his premises is one of our most priceless personal rights, and has been so recognized since the founding of the Republic.

As a matter of fact, General, hasn't this principle been recognized since this country was founded and that if this bill should be passed it would be an entire innovation and would change the status of property in this country?

Mr. PATTERSON. It definitely would, Senator. It definitely would.

It is a beginning, at least—if not the complete, at least a beginning of the destruction of the great American system of free enterprise, where the people can come to America, where we can produce our Henry Fords, who can start in the little shops and build vast business empires; where people could come to our shores in New York, get off a boat, couldn't even speak a word of English, but then go ahead and build himself into a great business tycoon like the Giannani buildup of the Bank of America. This type of legislation, in my humble opinion, is destroying that very thing that made America the greatest and most powerful nation on earth.

Senator THURMOND. General, does it make much difference whether the title to property is in the Government or the titular title is in an individual if the Government is going to direct and control the regulation and use of that property?

Mr. PATTERSON. I see no point in owning property if the Government is going to determine how you have got to use it. Why own a

place of business? Why not just turn the place of business over to the Government and say put me on a salary and tell me how I shall run it.

Senator THURMOND. If the Government can tell the owner of a private piece of property to whom he must sell or serve, cannot the Government also go further and prescribe the menu to be served, or the prices to be charged because if the prices charged are too high, would not the Government have the right to say that that is discrimination and you can't charge that much?

Mr. PATTERSON. Surely.

Senator THURMOND. Aren't we setting a precedent here that can lead to very dangerous features in the years to come?

Mr. PATTERSON. Setting a precedent to which there is no end except complete governmental control of every phase of business, and even private activity.

Senator THURMOND. On page 6 of your statement I was pleased to see you make this statement:

There are those who say that our opposition to this bill is motivated by a desire to deny our colored citizens their legal and constitutional rights. Speaking for myself, and, I am confident, for the overwhelming majority of the people of my State, this assertion is absolutely untrue.

Are you opposing this bill because of any racial hatred or prejudice, or are you opposing it because you feel it is unconstitutional and an invasion of the rights of a citizen in the handling of his property?

Mr. PATTERSON. I am opposing this bill because I feel that it is unconstitutional, and because it is an effort on the part of the Government to invade the rights of a free American citizen.

I am stopping at the Congressional Hotel. I think, I firmly believe, that the management of that hotel, when I walked in there at 11 o'clock last night, has every right in this world to have walked up to me and said, "We don't let Mississippians stop here; therefore, you can't have a room."

I think he had that right. I might not have liked it, but I think he had a right to do it, if he wanted to.

Senator THURMOND. If this bill should pass, and a Negro citizen should walk into that hotel, and if his appearance is not of the nature that the manager would like to have his guests to have, then would not that throw the hotel operator into a lawsuit because he would claim he turned him down on appearance, the Negro might claim he turned him down on account of his race, and isn't this bill susceptible of tremendous litigation and will it not require swarms of Federal agents to attempt to enforce it?

Mr. PATTERSON. That is exactly what it would do, Senator, and that is what you are being confronted with right now even without benefit of this bill.

I was talking with an official of a large business in a Western State, and he was telling me of having run into that very problem, that when he started to cut down on his personnel force, because he didn't need the number that he then had, and he called on his foreman to give him the names of those that could be the easiest to dispose of, well, certainly commonsense would tell you that the foreman naturally, when told he was going to have to take 8 or 10 of your department, naturally he took the most inefficient, and they were the ones that he recommended to go, and retained the most efficient.

But in among those that they let go there were a certain group of Negroes and he was immediately confronted with saying that "I was fired because I was a member of the Negro race."

And, of course, that gets right down to what the Senator has just mentioned. Denial of accommodation, regardless of what the reason might have been, would be based on race. And, of course, he would come to the U.S. Attorney General—the door is wide open there for them to bring all their complaints to them.

And I might say here that those agitators, many of them in my State, right today, who have come in there, the first time a police officer crosses their path, the minute he can get to a telephone he calls a direct line into the Department of Justice. Why doesn't every citizen have that right? Is that right just to be exercised by one group? Can it be said that only one group of people have their rights violated in America?

What about the people who are trying to cross a picket line to go in and exercise the greatest of American rights, the right to work and make a living, with or without belonging to a labor union? When he finds himself beat up with brass knuckles and blackjacks, do they call the U.S. Department of Justice and get an immediate band of policemen rushed in to their aid? No; they get taken to the hospital and get well at their own expense.

Senator THURMOND. General, this bill is predicated upon the interstate commerce clause and also the 14th amendment to the Constitution. Would it not be stretching beyond imagination the interstate commerce clause to try to hinge this bill on that provision of the Constitution?

Mr. PATTERSON. I think so, Senator. I have always thought the interstate commerce clause was very simple and its intent very plain. That was the right of Congress to govern the flow of trade between States of this Nation, and to prevent States from throwing up barriers.

Senator THURMOND. Doesn't this decision of *Williams v. Howard Johnson*, where the restaurant was located on an interstate highway, confirm the opinion you have just given?

Mr. PATTERSON. I think it is a complete answer to it.

Senator THURMOND. And that has not been reversed?

Mr. PATTERSON. No.

Senator THURMOND. The decision of 1883, which overruled and held unconstitutional a civil rights bill then similar to this civil rights bill here, has never been overruled, has it?

Mr. PATTERSON. That is right, sir. And I have it set out here in my statement, and in fact the language of the Court at that time is the most eloquent argument against this bill that could be made.

Senator THURMOND. And although I do not go on the theory that a decision of the Supreme Court is the law of the land, I think it is the law of the case, a great many people do take that position. But at any rate that is the last decision on the subject.

Mr. PATTERSON. That is right. And it is the law of that subject.

Senator THURMOND. Isn't the 14th amendment applicable only to State action and not to individual action? Does not the correction of a private grievance, if one has a grievance, come under the 14th amendment only if there is State action involved?

Mr. PATTERSON. That is very correct, sir, and that is what the courts have held numerous times. And, of course, as the Senator well knows,

we have seen the Department of Justice recently come in and attempt to tie State action onto what is purely individual action in order to justify them in taking up the cudgel and carrying on the litigation in the name of the United States.

Senator THURMOND. One of the most precious rights we have, one of the finest civil rights we have, is one of the amendments to the Constitution providing for right of trial by jury. Does this bill provide for trial by jury in case of violation of the law?

Mr. PATTERSON. No, sir; it does not.

Senator THURMOND. It provides for injunctions to be issued, to be taken before a judge, and punished without a trial by jury, does it not?

Mr. PATTERSON. It certainly does.

Senator THURMOND. General, the bell has now rung, and we stop at 12 o'clock. However, several other Senators have not had a chance to examine you. I am going to waive that for a few minutes, because I don't want to cause you to wait over until tomorrow. I know you want to go back today.

Senator MONRONEY. Thank you, Senator Thurmond.

Senator HART. I thank the Senator from South Carolina.

Senator MONRONEY. Senator Hart.

Senator HART. I have no questions, either. I am the one Democrat on this committee who has an additional dilemma. I am also a member of the Committee on the Judiciary. That committee is holding concurrent hearings with this committee on civil rights.

The Attorney General of the United States was testifying before the Judiciary Committee this morning. I regret very much that my decision was to stay at this committee. But it did have this effect: One title of the omnibus bill that the Judiciary Committee is considering would strengthen the hand of the Department of Justice in voting rights cases. My presence at this hearing this morning convinces me that I should redouble my efforts to insure that the Department of Justice does in fact get additional strength in its effort to insure voting all across the country.

Thank you very much.

Senator MONRONEY. Senator Cannon.

Senator CANNON. Thank you, Mr. Chairman.

General Patterson, you have raised a number of points here that certainly are very interesting, and some that give me a considerable degree of concern.

You indicated in the steel case about the power of the Executive which was unwarranted interference, whether there was or was not justification for the action on the part of the steel companies. I am wondering what your view is in connection with the present railway situation where the Congress is now considering legislation to try to avert a railway strike.

• Would you say that this, too, would be an unwarranted interference and that it would be best to let a strike occur if it would occur under those circumstances?

Mr. PATTERSON. No, sir.

Senator CANNON. I don't quite understand your answer. Are you saying that the Congress should intervene in the railway matter or should not?

Mr. PATTERSON. I think if it is necessary.

Senator CANNON. Congress should intervene? |

Mr. PATTERSON. Yes, sir.

Senator CANNON. Yet you think that this type of intervention is not proper——

Mr. PATTERSON. I think it is entirely different from the other, Senator. The railways are certainly an essential part of America. They have got to run. And I don't think any group of people, because they don't like what management and the railways or any other company, as to what they determine is necessary for the proper operation of that business, I don't think any group of people have the right to go out and say we will paralyze that business and stop it from operating all together.

I think you have entirely two different propositions.

Senator CANNON. Therefore you would have the right of the Federal Government to intervene under those circumstances?

Mr. PATTERSON. Yes, sir. That is, to intervene to the extent of saying to a group of people that you have no right to go out there and paralyze that industry and bring it to a standstill.

Senator CANNON. You make one point that I think is a very good point in connection with some of the provisions of this bill, wherein the language attempts to write in and to give some color to the bill to bring it under the constitutional amendments. I am inclined to believe that any language that Congress uses to try to add color to it will not necessarily resolve the problem, and that this is still going to be a matter for the court to determine, rather than by legislative intent for Congress to determine what the Constitution is. I think you have made a very good point in that respect.

I did correctly analyze your statement, did I not?

Mr. PATTERSON. Yes.

Senator CANNON. One other point that I think you made, a very good one, and that is that if the Federal Government is going to use its power on behalf of any person or group of persons, then it should likewise, with the same degree of diligence, use that power in any other instances where people are supposedly deprived of rights that they have and are entitled to. I do not agree that these powers, if they are to be used, should be used only in a certain type of instance, but should be applied universally.

As I understand it, you are saying that this is not a question of whether you are for or against integration in the broad sense of the term, but strictly from a constitutional standpoint that this is an unwarranted interference on the part of the Federal Government in private rights aspects guaranteed by the Constitution.

Mr. PATTERSON. Absolutely, that is my sole provision. I might say in my State we have a statute that provides, or which confers upon the proprietor or manager of any place of business the right to serve or to refuse to serve any person, which means that they have the right to refuse to serve me, just as much as they have the right to refuse to serve anyone else.

Senator CANNON. Many of us are certainly very gravely concerned about the moral problem that certainly exists and we are trying to find some solution to it.

Do you believe that the executive branch could use the powers of its office in moral leadership to resolve this problem without legislative aid, without legislative tools?

Mr. PATTERSON. I don't think the executive branch can solve this problem, Senator. I think that has been one of the greatest mistakes that has been made, that you are trying to correct a social order by law. It just can't be done. You can't change the hearts and minds of men by law.

Senator CANNON. Is there progress being made in this direction in your State at the present time?

Mr. PATTERSON. It would depend on what you would call progress, Senator.

Senator CANNON. On your definition, would you feel that progress is being made?

Mr. PATTERSON. In what direction?

Senator CANNON. In the resolving of this social or moral problem, however you want to refer to it. You referred to it as a social problem. Is it improving or is it getting worse or is it remaining status quo?

Mr. PATTERSON. I think it is both a social and moral problem. Our situation, as we have it, so far as the relationship between the white and colored population, frankly the activity on the part of the Department of Justice, the attitude of the executive branch, has served to, I think, set race relations back in my State, unfortunately, rather than benefit them. I think it has served to set them back.

Senator CANNON. This has been, you feel, because of the exercise of power and force that has been used; is that correct?

Mr. PATTERSON. That is correct. And because of the attitude, the policy of the present administration, particularly, and even the prior administrations, in that they have sought to lead these people into believing that constitutional rights exist only for your benefit, and they have ignored that which I have always thought was basic, and that is with every constitutional right there also goes an obligation, the greatest of which is to be a law-abiding citizen.

They have been misled and have been encouraged to come along to violate laws, and then the Department of Justice has stepped in and sought to condone that violation and afford protection. Therefore, many of those people have been led to believe that they have no obligation; that it is just a matter of right.

Senator CANNON. I want to disassociate myself from your views in connection with the position of the President. I think the President has a very grave problem, and he is trying to resolve it and secure a resolution that will be for the benefit of all of the citizens of our country. For that I applaud him.

However, I must say that I do agree with your reference insofar as the Attorney General is concerned, wherein you criticize him for implying or stating that he believes the law would be changed at this time by the Supreme Court, or that they would not follow the previous decisions. I think it is incumbent upon any attorney general, be it in your State or any other State, in upholding the law of their State, to accept the law as it has been determined by the courts until the courts rule otherwise.

I think that that obligation exists in the case of our own Attorney General.

I thank you very much, Mr. Chairman.

Senator HART. Mr. Chairman.

Senator MONRONEY. Senator Hart.

Senator HART. I want to thank the Senator from South Carolina for permitting us this overdue time and to ask his indulgence for just one more comment.

My earlier comment to you, sir, was somewhat oblique. I think a reading of the record will suggest what was really behind it.

I just regret to see what I regard as an attack on the President of the United States and the Attorney General of the United States, not implicit but explicit in your statement. It shocks me, and I would hope it would shock the conscience of a majority of men.

This is not to say that you haven't the absolute freedom to make it. But it would be tragic if very many officials, very many men or women in public office feel as you apparently do, that the reason we have trouble is because we have a President and Attorney General by the name of Kennedy. This would produce very tragic consequences.

In the middle of 1963 the problems that we are attempting to resolve through this legislation or helping to resolve occurred not because of who sits in Congress or who is in the White House, but just the flow of history. And we had better read the message straight and not be diverted by this kind of personalizing discussion. This is the point I want to make explicit.

I thank you.

Mr. PATTERSON. If I may say in reply to that, I have every—certainly I have every respect for the great American system of government, the greatest in the world. I have every respect for the high office of President, and the other offices that go with it. But at the same time I don't think because a man occupies those positions that such occupancy renders him immune from criticism by anyone, me, or any other citizen.

I say again, without apologies but with all deference to the position of the Senator, that I do think that those two individuals have taken their powerful offices and have, to a large extent, helped encourage and bring about some of these unfortunate racial situations that we have.

Just like here the other day, when the President virtually invited the 100,000 or 200,000 to descend on this Congress and demand to get what they are asking for.

I think President Truman was right in his statement some time ago when he was asked about this. He said when he was running a private business, when a man came in that he didn't like, if he didn't get out when he told him to, he would throw him out.

Senator HART. You are quite right, sir. You are perfectly free to criticize the holder of any office, as you and I and other officeholders know. That is a privilege which can be exercised.

It shocks me that you would describe the Attorney General as getting "fiendish delight" in bringing to bear on all who would dare oppose him the crucial power of the might of the Federal Government. That music is discord. And I think it contributes not a bit to the resolution of the problem that is more serious than Cuba, for example.

Senator THURMOND. Mr. Chairman, I would like to express my appreciation to the attorney general of Mississippi for the fine contribution he has made here today.

Mr. PATTERSON. Thank you.

I might say in making that statement, inasmuch as the distinguished Senator may disagree with me, that is my honest opinion.

Senator HART. I am sure it is.

Senator MONRONEY. Is there anything further?

Senator THURMOND. That is all.

Senator MONRONEY. I would like to say in closing that that portion of the attorney general's brief that dealt with legal matters and with the logic of this case, I appreciated hearing very very much. I only regret that in what otherwise was an exemplary statement I find myself in complete and total disagreement with the conclusion regarding the President and the Attorney General, and that he has damaged his own case in the intemperate statements he used in condemning these two young men who are doing the best possible in a very difficult time in our history.

The committee will stand in recess until 9:15 in this room tomorrow morning. The witness will be announced later.

The railroad hearings will resume at 7:30 tonight to hear Mr. George Meany and others. The railroad hearings will be in room 318.

We stand in recess.

(Whereupon, at 12:20 the committee was adjourned to reconvene at 9:15 a.m., July 31, in room 5110, New Senate Office Building.)

CIVIL RIGHTS—PUBLIC ACCOMMODATIONS

WEDNESDAY, JULY 31, 1963

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met, pursuant to recess, at 9:15 a.m., in room 5110, New Senate Office Building, Hon. John O. Pastore presiding.

Senator PASTORE. Having reached the hour of 9:15 this hearing will please come to order.

We are honored this morning by having the distinguished U.S. Senator from Mississippi who will make an introduction of our witness, Senator McLaurin.

Senator EASTLAND. Mr. Chairman, I appreciate the opportunity to appear.

Senator McLaurin comes from a family that has been very influential in political and business affairs of my State for more than a century. It has produced two U.S. Senators, a Governor, leaders in political and business affairs.

He is one of the ablest young men that I have ever known. He is one of the leaders of the Mississippi State Senate. He is a candidate for attorney general of Mississippi.

He has a very fine reputation as a trial lawyer and as a very profound lawyer, and I recommend him very highly to you.

Senator PASTORE. I thank you, Senator.

Mr. McLaurin, will you please take your seat?

STATEMENT OF HON. JOHN McLAURIN, MISSISSIPPI STATE SENATOR

Mr. McLAURIN. Thank you, Senator Eastland.

Gentlemen, I appreciate this opportunity to testify in general against the overall misnamed civil rights legislation now under consideration by the Congress and specifically against the Public Accommodations Act on which this committee is holding public hearings.

First, I would like to refer to certain comments made to this committee by Gov. Ross Barnett of Mississippi and Gov. George C. Wallace of Alabama.

Governor Barnett, on Friday, July 12, 1963, charged that the current wave of racial and so-called civil rights agitations, demonstrations, and unrest was Communist inspired, and he displayed a photograph showing Martin Luther King at the Highlander Folk School, Monteagle, Tenn., a Communist training school.

Governor Wallace on Tuesday, July 16, 1963, also charged Martin Luther King with Communist associations and suggested that Congress should investigate him.

Governor Wallace displayed a copy of the Augusta (Ga.) Courier which stated that:

Martin Luther King was a member of more Commie fronts than any Red in the United States.

Of course, Martin Luther King immediately charged that these charges were "utterly ridiculous and erroneous" and said that they were the "familiar McCarthy-like Communist tag."

And on Friday, July 26, 1963, Attorney General Robert F. Kennedy, according to press reports attributed to United Press International, and I quote—

notified Congress that an FBI check has shown no evidence that any of the leaders of the major civil rights movements are Communists or Communist-controlled. Kennedy also wrote Senator A. S. Mike Monroney, Democrat, of Oklahoma, that Communist efforts to infiltrate integration groups have been remarkably unsuccessful.

The UPI story continues, and I quote again:

Monroney is a member of the Senate Commerce Committee which recently heard Govs. Ross Barnett of Mississippi and George O. Wallace of Alabama charge that Communist influences were back of much of the Negro civil rights protest activity. The Senator wrote FBI Director J. Edgar Hoover for his views, and the latter turned the letter over to Kennedy. The Attorney General replied: "Based on all available information from the FBI and other sources, we have no evidence that any of the top leaders of the major civil rights groups are Communists or Communist-controlled. This is true as to Dr. Martin Luther King, Jr., about whom particular accusations were made, as well as other leaders."

Gentlemen, without a doubt, this statement attributed to the Attorney General of the United States is the most brazen coverup ever perpetuated on the American people.

When he says that there is no evidence that Martin Luther King, or any of the top leaders of the major civil rights groups, are Communists or Communist-controlled, then he has either deliberately misstated the facts or is the most ignorant Attorney General this Nation has ever had.

I tell you gentlemen that Attorney General Kennedy is not an ignorant man. I charge that he is deliberately whitewashing the Negro leadership with which he is in daily contact, and that in so doing he has, with full knowledge, deliberately ignored pertinent facts in the files of the Federal Bureau of Investigation, and facts available to him, and to you, from the files of the House Committee on Un-American Activities and your own Senate Subcommittee on Internal Security.

Gentlemen, with your permission, I wish to present just a few pertinent facts:

(1) In the same newspapers carrying the Attorney General's whitewash statement, another UPI story appeared in which Martin Luther King admitted the link between his Southern Christian Leadership Conference (SCLC) and Communist Jack H. O'Dell of New York. The Senate Internal Security Subcommittee and the House Committee on Un-American Activities both have records linking O'Dell with Communist work. Yet Martin Luther King had him working in his Southern Christian Leadership Conference organization, and as late as Thursday, July 25, an SCLC staff employee told UPI that O'Dell was still with the office as administrator of the New York operation.

Now, if the committee pleases, I would like to introduce into evidence as exhibit 1 the UPI stories to which I just referred.

Senator PASTORE. May I see it?

Is there any objection to the introduction of these stories?

The Chair hears none. So ordered.

(The UPI stories referred to follow:)

[From the Clarion-Ledger, July 26, 1963]

DEDICATED ZEALOT

MARTIN LUTHER ADMITS LINK BETWEEN SCLC, FORMER RED

ATLANTA (UPI).—Dr. Martin Luther King, Jr., said Thursday that a 39-year-old technician who was linked by congressional committees to the Communist organization worked twice for his Southern Christian Leadership Conference.

King said the Negro, Jack H. O'Dell of New York, left the SCLC the second time June 26 by mutual agreement because of concern that his affiliation with the integration movement would be used against it by segregationists and race baiters.

The Senate Internal Securities Subcommittee and the House Un-American Activities Committee have linked O'Dell with Communist work.

At an Atlanta hearing of the Un-American Activities Committee, a committee counsel called O'Dell a dedicated zealot for communism.

At a New Orleans hearing of the Senate group, Richard Arens, chief counsel, said O'Dell was the top man for Communist activity in Louisiana.

ACKNOWLEDGED

King acknowledged at a news conference that O'Dell "may have had some connections in the past with communism but we were convinced that he had renounced them and had become committed to the Christian philosophy of non-violence in dealing with America's social injustices."

He denied repeatedly a recently published report (in the Atlanta Constitution) that O'Dell was currently employed by the SCLC in any capacity.

The newspaper said he was director of the SCLC New York office. A staff employee who answered the telephone Thursday morning told United Press International O'Dell was still with the office as administrator of the New York operation. Later in the day the same office said he was not connected with the agency and had no knowledge of his whereabouts.

King told reporters he could not understand why anyone in his office would say O'Dell worked there when he doesn't.

King said O'Dell worked for the group on two occasions—the second time after the SCLC satisfied itself he was not a Communist as charged—but that his connections were severed for good June 26.

King said O'Dell first came to the SCLC after work on the Bronx Committee of Citizens for Kennedy in 1960 and that a letter of commendation for O'Dell was received from Robert M. Morgenthau. He is a U.S. attorney in New York who ran against Nelson Rockefeller for the New York governorship.

ASKED TO QUIT

King said O'Dell was asked to resign temporarily after published reports that he had had some relationship with the Communist Party. "After an investigation," he said, "we concluded he had no present connection and he was returned to the SCLC staff."

He said "it was mutually agreed that O'Dell should leave the SCLC again when it became evident in Birmingham that the crusade for civil rights had reached the conscience of America and that Mr. O'Dell's employment could be used against the organization by segregationists."

King said the O'Dell issue was being used "in another attempt to forestall and hamper the true essence of today's civil rights struggle."

"It is another McCarthy-like tactic to destroy the movement," King said.

He acknowledged that communism can use the integration movement against the United States but he felt that efforts to prevent Negroes from full rights would be used even more.

'WOOLY HEADED' THINKING IS HIT BY DICK NIXON

BERLIN (AP).—Former Vice President Richard M. Nixon said Thursday it was "wooly-headed thinking" to believe Soviet Premier Khrushchev is mellowing and moving toward the end of the cold war.

"Go to East Berlin, to Budapest and other places behind the Iron Curtain and you'll find no evidence of mellowing there," Nixon told newsmen after a tour of Eastern Europe.

He also said his two visits to East Berlin had convinced him East Germany was the most tightly repressed police state in the world.

"I told Communist officials shadowing me that they were murderers," he said. Nixon also had a few words of advice for the Republican Party.

He urged GOP hopefuls to "quit indulging in the favorite Republican sport of cannibalism or they are going into a heavy defeat."

RFK SAYS MIXERS NOT COMMUNISTS

WASHINGTON (UPI).—Attorney General Robert F. Kennedy notified Congress Friday that an FBI check has shown no evidence that any of the leaders of the major civil rights movements are Communists or Communist-controlled.

Kennedy also wrote Senator A. S. (Mike) Monroney, Democrat of Oklahoma, that Communist efforts to infiltrate integration groups have been "remarkably unsuccessful."

Monroney is a member of the Senate Commerce Committee which recently heard Governors Ross Barnett of Mississippi and George O. Wallace of Alabama charge that Communist influences were back of much of the Negro civil rights protest activity.

The Senator wrote FBI Director J. Edgar Hoover for his views and the latter turned the letter over to Kennedy.

The Attorney General replied: "Based on all available information from the FBI and other sources, we have no evidence that any of the top leaders of the major civil rights groups are Communists or Communist-controlled. This is true as to Dr. Martin Luther King Jr., about whom particular accusations were made, as well as other leaders."

Mr. McLAURIN. Gentlemen, this Negro O'Dell is a known Communist organizer who has been arrested and who has served time. He attempted to organize New Orleans dockworkers. At an Atlanta hearing of the House Committee on Un-American Activities a committee counsel called O'Dell a "dedicated zealot" for communism. Most certainly the FBI files contain his record. Most certainly Martin Luther King knows this man's history. How could the Attorney General whitewash Martin Luther King's organization when it had a known Communist working for it?

Here is another good question. Attorney General Kennedy said, and I quote:

Based on all available information from the FBI and other sources, we have no evidence that any of the top leaders of the major civil rights groups are Communists or Communist controlled.

Let us compare this statement by the Attorney General with statements made by FBI Director J. Edgar Hoover.

(2) I would like to call to your attention in this connection an article recently written by Mr. Holmes Alexander, of Washington, D.C., and I quote Mr. Alexander:

On January 18, 1958, when Director J. Edgar Hoover was asking the House Appropriations Subcommittee for funds to run the FBI during the next fiscal year, he said: "The Negro situation is also being exploited fully and continuously by Communists on a national scale. Current reports include intensified attempts to infiltrate Negro mass organizations. The party's objectives are not to aid the Negroes—but a design to take advantage of all controversial

issues on the race question so as to create unrest, dissension, and confusion in the minds of the American people."

Now, if the committee pleases, I would like to introduce as exhibit 2 this article written by Mr. Holmes Alexander referred to—written on July 23, 1963.

Senator PASTORE. Is there any objection?

The Chair hears none.

So ordered.

(The article referred to follows:)

(From the Jackson Daily News, July 23, 1963)

HOOPER'S REPORT REVIEWED RED INFLUENCE IN MIXING DRIVES WELL ESTABLISHED

(By Holmes Alexander)

WASHINGTON, D.C.—On January 10, 1958, when Director J. Edgar Hoover was asking the House Appropriations Subcommittee for funds to run the FBI during the next fiscal year, he said:

"The Negro situation is also being exploited fully and continuously by Communists on a national scale. Current programs include intensified attempts to infiltrate Negro mass organizations. The party's objectives are not to aid the Negroes—but are designed to take advantage of all controversial issues on the race question so as to create unrest, dissension, and confusion in the minds of the American people."

TESTIMONY QUESTIONED

Mass demonstrations by Negroes in the North and South, to be culminated with a huge march on Washington next month, were not in the news, as they are now, when Director Hoover gave this dispassionate, succinct, and informed statement of Communist intentions. Last week southern Governors Barnett of Mississippi and Wallace of Alabama flapped the Red flag in words much like Hoover's. But the Barnett-Wallace testimony before the Commerce Committee's civil rights hearings was too self-interested to be effective. Another Red object—the red herring of McCarthyism—came scurrying into the caucus room where McCarthy once performed. The subject of Communist complicity soon got lost amid pious horror of "smearing" the Negro race and its leaders. Somebody suggested that J. Edgar Hoover be summoned as a star witness on the subject, but Chairman Magnuson was against it.

Fortunately, it is hardly necessary to call Hoover. A little page leafing through House appropriations hearings shows that the FBI Director has several times asked Congress for money for the very purpose of investigating Communist incitation of the Negroes.

On March 3, 1961, Hoover told the House money raisers:

"The sit-in demonstrations in the South were a made-to-order issue which the party fully exploited to further its ends."

By now the Director was giving names, places, and dates. He mentioned James E. Jackson and Joseph North, "national Communist Party functionaries," who came around for the demonstrations at Richmond, Va., in February 1960. He quoted the Negro Communist, Ben Davis, "the party's national secretary," as stating in March 1960 that Negro demonstrations are the next best thing to "proletarian revolution."

Again, on January 24, 1962, Hoover came to the House Appropriations Committee for funds, and one of his arguments was:

"Since its inception, the Communist Party, U.S.A., has been alert to capitalize on every possible issue or event which could be used to exploit the American Negro in furtherance of party aims. In its efforts to influence the American Negro, the party attempts to infiltrate legitimate Negro organizations for the purpose of stirring up racial prejudice and hatred. In this way, the party strikes a blow at our democratic form of government by attempting to influence public opinion throughout the world against the United States."

CLEAR ENOUGH

Well, nothing could be clearer than that. I have names for future columns showing proved Communists ferrying between Havana and the demonstration.

sites in American cities, and showing known Communists at the dirty work of teaching Negroes and whites to hate one another.

But the point which Warren Magnuson's Commerce Committee ought to be honest enough to discover is already laid bare, and this is it:

The unhappy American Negro, generally immune to Communist blandishments and greatly preferring the American way, is now being solicited and tempted, organized and incited as never before, by the worst enemy our country ever had.

Mr. McLAURIN (reading):

Mass demonstrations by Negroes in the North and in the South, to be culminated with the huge march on Washington next month, were not in the news, as they are now, when Director Hoover gave this dispassionate, succinct, and informed statement of Communist intentions.

Last week Southern Governors Barnett, of Mississippi, and George C. Wallace, of Alabama, flapped the Red flag in words much like Hoover's. But the Barnett-Wallace testimony before the Commerce Committee's civil rights hearing were too self-interested to be effective.

Another Red object—the red herring of the McCarthyism—came scurrying into the caucus room where McCarthy once performed. The subject of Communist complicity soon got lost and amid pious horrors of smearing the Negro race and its leaders. Somebody suggested that J. Edgar Hoover be summoned as the star witness on the subject. But Chairman Magnuson was against it.

Fortunately, it is hardly necessary to call Hoover. A little page leafing through House appropriations hearings shows that FBI Director Hoover has several times asked Congress for money for the very purpose of investigating Communist incitation among the Negroes.

Let me quote again:

On March 3, 1961, Hoover told the House money raisers that the sit-in demonstrations in the South were a made-to-order issue which the party fully exploited to further its ends. By now the Director was giving names, places, and dates. He mentions James E. Jackson and Joseph North, National Communist Party functionaries, who came around for the demonstrations at Richmond, Va., in February 1960.

He quoted Negro Communist Ben Davis, the party's national secretary, as stating in March 1960 that Negro demonstrations are the next best thing to proletarian revolution.

Again on January 24, 1962, Hoover came to the House Appropriations Committee for funds and one of his arguments was, quoting Hoover, "Since its inception the Communist Party, U.S.A., has been alert to capitalize on every possible issue or event which could be used to exploit the American Negro in furtherance of the party aims. In its effort to influence the American Negro, the party attempts to infiltrate the legitimate Negro organizations for the purpose of stirring up racial prejudice and hatred. In this way the party strikes a blow at our democratic form of government by attempting to influence public opinion throughout the world against the United States."

Gentlemen, I am sure that the Communists have a major part in the Negro demonstrations that are underway in our Nation. If you would call FBI Director J. Edgar Hoover to testify, I am sure he could present ample evidence that the Communists were and are now using the self-styled Negro leaders as a part of the Communist conspiracy. I am confident he could prove it to you, and I believe you want the proof. I do not think that you will get it from Attorney General Robert Kennedy.

(3) I would suggest that you ask Martin Luther King, Jr., a few direct questions from this committee. One would be if he has used the mailing plates of the Communist National Guardian publication in mailing out thousands of letters soliciting funds for his Southern Christian Leadership Conference.

I have here before me a photostat of a letter written on the personal stationery of Martin Luther King, Jr., dated October 20, 1960, written

from the Fulton County jail in Atlanta from which he was soliciting funds. In front of me is a photostat of the envelope in which this letter was mailed from New York on December 28, 1960. The plate from which this envelope was addressed matches identically a plate of a National Guardian mailing label used to mail this publication to a subscriber on January 9, 1962.

Gentlemen, I am not asking you to take my word for this. I ask you to check through the FBI and let them find out if Martin Luther King, Jr., has been using mailing plates of the Communist National Guardian to solicit funds for his activities. You do not need my testimony, and you do not need the evidence that I have. This is something that the FBI could well be doing for you, and I am sure they have the information available and can present it to you. If they do not, I will be more than glad to cooperate and help them in obtaining this information by supplying the facts in my possession. There is enough information in the files and testimony of the House Committee on Un-American Activities and Senate Internal Security Subcommittee for weeks of testimony.

(4) I would like to refer you to the information contained in this publication, "Communism and the NAACP," that was presented under oath by Dr. J. B. Matthews, former director of the House Committee on Un-American Activities at a public hearing of the Florida Legislative Investigating Committee on Monday, February 10, 1958, at the State capitol in Tallahassee, Fla., and I quote:

This testimony definitely established the fact that the NAACP has been a prime objective of the Communist penetration and, in numerous instances, prominent individuals connected with the NAACP have succumbed to the appeals of the Communist-front apparatus. The indisputable truth of the matter is that the leaders of the NAACP, taken as a whole, have been extraordinarily soft toward the Communist conspiracy. It may be enlightening to give some totals which indicate the extent to which the top leadership of the NAACP has given aid and comfort to the Communist apparatus.

Listed on the current letterheads of the NAACP are the names of 236 different national officers. One hundred and forty-five (or more than 61 percent) of these individuals have been involved, in one way or another, with Communist enterprises, for a grand total of 2,200 affiliations of public record. Forty-six of these NAACP national officers have had 1 or 2 Communist affiliations; 99 have had 3 or more such affiliations; 52 had 10 or more; and 46 have had 15 or more.

End quote of Dr. Matthews' testimony.

This information has been taken from pages 41 and 42 of this publication on "Communism and the NAACP."

If the committee please, I would like to introduce this publication as exhibit 3 to my testimony today.

Senator PASTORE. May I see it, please?

Is it satisfactory if we incorporate this in the record by reference? It is quite a voluminous document. Any objection on the part of the committee?

(No response.)

So ordered. It will be incorporated by reference.

• Mr. McLAURIN. I would like to refer you to page 89 of "Communism and the NAACP" regarding the Southern Conference for Human Welfare, and I quote from page 39 of this same publication, "Communism and the NAACP."

The first big penetration of the Communist Party into the South came with the launching of the Southern Conference for Human Welfare in November

1938. The launching took place in Birmingham, Ala., with the blessings of the White House. Eleanor Roosevelt was the principal speaker.

At the bottom of page 39 it continues:

The House Committee on Un-American Activities had something to do with the liquidation of the Southern Conference for Human Welfare, but the decisive factor in its demise was the switch from the wartime honeymoon of the Washington-Moscow axis to the cold war.

Continuing the quote:

Under the date of March 29, 1944, the Dies committee dubbed the SCHW—

Which is the Southern Conference for Human Welfare—

a Communist front, and in a special report of the Committee on Un-American Activities, dated June 12, 1947, the following indictment of the SCHW was made: Careful examination of its official publication and its activities will disclose that the conference is being used in devious ways to further basic Soviet and Communist policy. Decisive and key posts are in most instances controlled by persons whose record is faithful to the line of the Communist Party and the Soviet Union. In a 1954 report, the Senate Internal Security Subcommittee reached the following unanimous conclusion: The Southern Conference for Human Welfare was conceived, financed, and set up by the Communist Party in 1938 as a mass organization to promote communism throughout the Southern States.

End quote from "Communism and the NAACP."

If the committee please, I would like to incorporate by reference page 39 from this publication "Communism and the NAACP."

Senator PASTORE. With objection, so ordered.

Mr. McLAURIN. I am continuing on page 40 of "Communism and the NAACP." The heading is "The Southern Conference Education Fund."

Attention has already been called to the fact that the Southern Conference for Human Welfare metamorphosed into the South Conference Educational Fund in the middle of 1948. In the shift from one name to the other, the organization maintained the same headquarters, the same telephone number, the same publication, and the same executive director.

The Senate Internal Security Subcommittee reported in 1954 that an objective study of the entire record compels the conclusion that the Southern Conference Educational Fund, Inc., is operating with substantially the same leadership and purposes as a predecessor organization, the Southern Conference for Human Welfare.

By "the same leadership and purpose," the Senate committee meant that the Southern Conference Education Fund, like the Southern Conference for Human Welfare, was "a mass organization to promote communism throughout the Southern States."

Much has already been said about Aubrey Williams, president, and James A. Dombrowski, executive director of the Southern Conference Educational Fund. It may be added that the names of both Williams and Dombrowski were attached to the brief "Amici Curiae" which was submitted to the U.S. Supreme Court, October 1955 term, on behalf of the Communist Party, U.S.A. Their support of this brief, "Amici Curiae," written with a typical Communist flair, sufficiently reveals the ideological position of these two principal officials of the SCCEF. As already indicated, the Southern Conference Educational Fund exerts a commanding influence in the South today, and is the vanguard of the pro-Communist integration forces. The principal function of the Southern Conference Education Fund is to serve as a bridge between the Communist Party on the one hand and misguided Southern liberals on the other hand. In this function, it has been remarkably successful.

Complete end of quote from "Communism and the NAACP."

I would like to have this excerpt included by reference, if the committee please.

Senator PASTORE. Without objection, so ordered.

Mr. McLAURIN. I would like to refer you to the names of several so-called civil rights leaders who have been leading demonstrations in Mississippi. I would first refer you to John R. Salter, a white professor at Tougaloo College in Jackson, Miss. Salter, for some time, has been under the surveillance of the FBI and according to information that we have received through the police in cities where Salter has lived, and including the Jackson police and through FBI sources, Salter has contributed articles to a number of Communist publications. Salter has openly stated in conversations with Millsaps College professors that:

I am a Marxist-Leninist and my intent and purpose is to destroy the capitalistic system in this country.

I would also refer you to other men who have been taking the leadership in the civil rights movement and agitation in Mississippi and the South. These men are Carl Braden, Dr. James A. Dombrowski, and Robert Moses. All of these men have been active in Negro leadership groups and activities in Mississippi and the South.

I would suggest that if you want detailed information on the activities of these men that you ask the FBI for the records concerning the activities of these men.

For those of you present who are not familiar with Dr. James A. Dombrowski, I would like to quote from the subcommittee investigating the administration of the Internal Security Act and other internal security laws. One of the five persons who was subpoenaed and testified at these hearings was one Dr. James A. Dombrowski, who was identified as Executive Director of the Southern Conference Educational Fund, Inc. He had, immediately prior to the assumption of this present office, been administrator of the Southern Conference for Human Welfare, to which I referred a moment ago.

Dr. Dombrowski was identified by a witness as one who, to the witness' certain knowledge, had been a member of the Communist Party. He was also identified by another witness who had accepted Communist Party discipline.

You will remember that the Southern Conference for Human Welfare was conceived, financed, and set up by the Communist Party in 1938 as a massive organization to promote Communism throughout the Southern States.

I now refer you to testimony by Mr. John D. Sullivan, former FBI agent, before the general legislative investigating committee of Mississippi in which Mr. Sullivan quoted from a hearing held at Memphis, Tenn., on October 28 and 29 of 1957 entitled "Communism in the Mid-South," the hearing before the Subcommittee To Investigate the Administration of the Internal Security Act and Other Internal Security Laws of the Committee on the Judiciary—U.S. 85th Congress—First Session.

Reading from the bottom of page 36, line 5, through the middle of page 37, the witness, Mrs. Ahern, in being questioned by Mr. Morris, identified Mr. and Mrs. Carl Braden as having recruited her (Mrs. Ahern) into the Communist Party.

Now, if the committee please, I would like to introduce this report to the 1962 regular session of the Mississippi State Legislature by the general legislative investigating committee. I would like to introduce

this into evidence as exhibit 4 to my testimony with particular emphasis upon pages 36 through 37, pages 207 and 208.

Senator PASTORE. Is there any objection to the inclusion of this by reference?

(No response.)

It will be so ordered. It will be included by reference.

Mr. McLAURIN. Quoting, "Robert Moses, referred to above, is now working in Clarksdale, Miss., and is an associate and actively working with Carl Braden."

I would like now to refer you to an article printed in the Jackson Daily News on August 25, 1962, by Jack Lotto, copyright, King Features Syndicate. Excerpts from this article are as follows:

The four top Negro Communist leaders in America are moving on a special top priority assignment into the troubled South.

Bear in mind this was dated October 25, 1962, just before these demonstrations began to occur.

The mission of these Moscow-trained agitators is to encourage and promote racial incidents and divide the people. "Task Force Trouble" consists of James E. Jackson, one of the five-man secretariat of the Communist Party, propaganda chief and editor of *The Worker*, the party's voice, and Communist Party vice chairman Claude Lightfoot, of Chicago. The other two are Benjamin Davis, Jr., of New York, the national secretary of the Communist Party, and William L. Patterson, chairman of the New York Communist Party.

Continuing the quote from Mr. Lotto's article:

Party plans to influence Negroes and recruit them were mapped and approved at a secret meeting in New York of its national Negro commission, a conference attended by 60 leading Reds from all parts of the United States.

End quote from Mr. Lotto.

If the committee pleases, I would like to introduce this as exhibit 5. Senator PASTORE. Without objection, so ordered.

(The article referred to follows:)

[From the Jackson Daily News, May 31, 1963]

On Your Guard

COMMIE TEAM CUES AGITATORS

(To help its readers keep on guard against propaganda, the Daily News has for some time been bringing you this authoritative weekly report. This particular column is printed from the Daily News of Aug. 25, 1962.)

(By Jack Lotto, copyright, King Features Syndicate)

The four top Negro Communist leaders in America are moving on special top priority assignment into the troubled South.

The mission of these Moscow-trained agitators is to encourage and promote racial incidents and divide the people.

"Task Force Trouble" consists of James E. Jackson, one of the five-man secretariat of the Communist Party, propaganda chief and editor of *The Worker*, the party's voice, and Communist Party vice-chairman Claude Lightfoot, of Chicago.

The other two are Benjamin J. Davis, Jr., of New York, the national secretary of the Communist Party, and William L. Patterson, chairman of the New York Communist Party.

Party plans to influence Negroes and recruit them were mapped and approved at a secret meeting in New York of its national Negro commission, a conference attended by 60 leading Reds from all parts of the U.S.

"HISTORIC" MISSION

Gus Hall, the American Khrushchev, described the commission meeting as "historic."

The decisions at this conference set into motion a series of actions aimed at bringing large numbers of Negroes into the party—something years of Red propaganda has failed to accomplish.

The most important decision was to relieve Jackson, Lightfoot, Davis, and Patterson of all other duties effective September 1, to allow them to concentrate on winning friends and ideologically influencing Negroes.

The quartet is going to visit big Negro communities throughout the Nation.

At the hush-hush meeting, Lightfoot instructed those present to return to their party districts to prepare for these visits, adding, "we will do the rest."

TO JOIN MIXERS

Emphasis is going to be placed on Reds penetrating the major Negro protest and improvement associations in an effort to exploit all controversial or potentially controversial racial issues.

Hall called on the comrades for more militancy in the Negro movement and to provide what he termed "new strength."

Despite the fact that Communist propaganda over the years has failed to lure any significant numbers of Negroes to their cause or ranks, the Reds will continue to portray themselves, falsely, as the champions of social protest and minority groups.

Jackson is no stranger to the South. He has for over 20 years, headed party activities in Louisiana, Virginia, Arkansas, Alabama, and other States, such as New York and California.

He was the U.S. Communist Party representative and a speaker at the 21st Congress of the Communist Party in Moscow in 1959. Soon after his return home, he was named boss of all propaganda in the United States with the apparent blessing of Khrushchev.

At one commission meeting, Lightfoot urged the comrades to work with the growing fanatical, all-Negro, antiwhite Muslims, also known as the Nation of Islam, to get them involved in what he termed "mass struggles."

MUSLIMS OBSTACLE

In another conference, Lightfoot called the Muslims "an obstacle in the mobilization of American Negroes for today's battles" because they preach setting up a Negro nation in the United States, a program dropped by the Communists some years ago.

Despite what appears to be contradictory sentiments, Lightfoot wants the Communists to create a short-term united front with the Muslims for strategic purposes. He told the comrades—

"We are duty bound to go among our Muslim brothers and to help light an understanding among them."

A congressional investigation of the Muslims was voted last week.

[From the Jackson Daily News, July 2, 1963]

On Your Guard

REDS TO CAPITALIZE ON U.S. RACIAL DISCORD

(By Jack Lotto, a Daily News weekly feature)

The Communist Party is out to change its "image."

What's more, the Reds are adopting hated capitalistic advertising techniques to sell themselves to the public.

They are not about to adopt such slogans as "Better Red than dead," or some bouncy jingle on the joys of peaceful coexistence, but who knows where it could all lead.

Maybe the Reds might end up sponsoring an all-expense paid tour of the salt mines in Siberia for the best 100 words on "Why I prefer communism over the free enterprise system," with Nikita Khrushchev as the judge. Second prize might be a one-way ticket to Red China.

In all seriousness, a secret meeting of the executive committee of the Communist Party decided something must be done to combat the picture of the Reds as part of an international conspiracy—which they are.

A special committee was established to use the "Madison Avenue approach" to drive home the image of just another political party.

The first step in the Red public relations campaign will be a sustained drive to inform the masses about the supposed lies being peddled about it by the Federal Bureau of Investigation and former comrades kicked out of the party for not following the line.

Gus Hall, boss of the U.S. Red movement, told his lieutenants that Communist publications must be put into the hands of Americans on a much broader scale.

URGED TO JOIN

At the same time, the Reds were told to spread out more—working with forces in the Negro movement, labor movement, women's clubs, youth groups, and similar organizations.

The assembled Communist leaders, at their conference in New York, were given a briefing on the situation in the South and talked about how the Communists could take advantage of the racial situation.

The racial discord, Hall declared, was "a test of our party—and an opportunity as well. We must meet this challenge by giving it everything we have."

One of his proposals was for the establishment of "an all-people's mobilization." Every community, he said, "should have some united front formation that can move into activities for the defense of democracy."

The Communists see the racial tension in the South as tailor made for their exploitation. A Communist task force headed by James B. Jackson, chief of Negro agitational work in the United States has been sent to the South.

The Reds have long—and unsuccessfully—tried to win over the Negro population to their cause by posing as the Negro's friend and champion.

Hall told the comrades that employers are responsible for and using white-Negro friction as a weapon to prevent the growth of a united working class movement opposing the capitalistic system.

He described the developments in Birmingham and other cities as a revolution of change from which a new nation is emerging. "Birmingham," he added, "is only the beginning of the breakthrough. It has set all the South into motion. It must now stir the whole country into motion. * * *

Mr. McLaurin. Gentlemen, I believe that I have the solution which will make even any additional consideration of the President's civil rights proposed legislation unnecessary.

Before I present my solution, I would like to mention several other points for your consideration.

(1) Negro leaders should expend their energies and talents toward assisting the Negro masses in the transition to the moral code of the white community, rather than being preoccupied almost entirely with integration. Qualified Negro leaders should lead their people toward a higher moral, social, and cultural level if the masses are ever to be accepted by the white society.

(2) In consideration of all laws, the rights of the community and the neighborhood should be respected. People of like mind and like interest should have the right to live together without Government interference. This is in the best American tradition. This is what we fought a war for.

(3) People with whom segregation is a deep moral and religious conviction are entitled to equal protection under the law just as much as those who espouse integration. Therefore, that sector of the populace advocating segregation should be provided with separate but equal tax-supported facilities that could be used without violation of their moral and religious convictions.

And now, gentlemen, I would like to present to you a solution whereby there will be no doubt that there is no need for any civil rights legislation. Proposals by President Kennedy are unconstitutional and never will you legislate or force one group of people, against their will, to accept another group of people. It is just as in

the case of the 18th amendment. You could not legislate prohibition, and so as a result the 18th amendment had to be repealed.

According to the information that we have received, there are more than 20 States who have enacted the same type of legislation that the President is proposing, or, in some cases, even stronger legislation than the President proposes. This, of course, is the right of each State. We in Mississippi have no argument or concern with the actions of Minnesota, New York, or California regarding legislation such as this to force one race on another. That is the business of that State.

An individual's right to restrict the use of his property lies beyond the realm of the 14th amendment. Freedom of the individual to choose his associates or his neighbors, to use or dispose of his property as he sees fit, are all things entitled to a large measure of protection from Government interference.

The fifth amendment of the Constitution provides, and I quote:

Nor shall private property be taken for public use without just compensation.

The basis of capitalism, our system of individual freedom, is founded on the right to private ownership of property, the right to do what one will with one's own.

As we in the South see it, there are two different reasons which are the principal factors behind support for all of these so-called civil rights bills.

One group of people who support most of these bills are, we believe, quite sincere—but, nonetheless, mistaken. They are convinced that the Negro is not getting a square deal in the South today, and they believe that Federal legislation is the best way to protect the Negro's "rights."

Many years of propaganda have created this idea in their minds—and about the only way I know that it can be corrected is for them to come see for themselves. Come visit our State, talk with the people, both white and black. See if you can reconcile what you see with all the false and biased propaganda reports which fill the northern and eastern press.

But there is another group of politicians—and I trust that what I am about to say will not reflect on anyone present here today—there is another group of politicians who support this kind of legislation out of motives which are beneath the contempt of any man.

These people claim to be for integration—but do nothing to practice the concept in their own lives. They claim to be concerned for the Negro—but recoil in horror when anyone naively suggests that they make room and find jobs in their own States and cities for Negroes.

The Negroes' interests as far as job opportunity is concerned can best be supported by making it possible for Negroes to relocate in sections of the country where better job opportunities are available in quantity. Particularly, Negroes should be assisted in moving to areas outside the South where the largest Federal expenditures are being made. This would afford all sections of the country an opportunity to share equally in the responsibility of assisting the Negro toward a better economic status. With proper legislation, this program could be handled by the Department of Labor through the U.S. Employment Service.

My solution is similar to one that the Governors of all of our States, with Federal coordination, are actively working on to relocate the Cuban refugees who have come into Florida. I propose that the Department of Labor, through the U.S. Employment Service, set up a division to coordinate among the States and the cities throughout our Nation a plan to relocate the Negroes so that each State will have approximately 10 percent of its population Negro.

Gentlemen, the 1960 U.S. Census tells us that Negroes comprise 10.5 percent of this Nation's total population. I repeat, 10.5 percent.

My home State of Mississippi is listed as 42 percent Negro, a higher ratio than in any other State. To equalize Mississippi's population with the national average, a total of 687,039 Negroes would have to leave our State.

By the same token, South Carolina has a Negro population surplus of 579,114.

On the other hand, the State of Washington, Chairman Magnuson's State, ranks 28th, with only 1.7 percent Negroes among its total population. To bring this State up to the national average of 10.5 percent, you could import 250,849 Negroes.

Or take Oklahoma. It would need 91,385 Negroes to bring it up to the national average.

Michigan is short 103,854.

Colorado would need 144,172 Negroes assimilated into its society.

Rhode Island lacks 71,914.

Even Alaska would require 16,977 additional Negroes.

New Hampshire has only three-tenths of 1 percent Negro population; it would need 61,824 to have the national average.

Vermont is tied with North Dakota for last place among the States, with only one-tenth of 1 percent—and would need 40,418 more Negroes.

Governor Hatfield of Oregon, one of the strongest advocates of this legislation, has only 18,133 Negroes, or 1 percent of the State's total population.

And in Minnesota the Negro population is 22,263, or seven-tenths of 1 percent.

Now, if we could work out an arrangement whereby that population of Negroes in Minnesota was increased by 336,192, up to a total of 10 percent of its total population, I am sure that there would be no change whatsoever in the practices of nondiscrimination in the State of Minnesota.

Gentlemen, this is a workable plan whereby each State will voluntarily—and I repeat voluntarily—agree to assume the responsibility of relocating Negro families in order that within a period of 10 years each State's total Negro population would be approximately 10 percent of the total population of that State.

This race problem is a problem of numbers. In a State such as Colorado where the population of Negroes is 89,992 and comprises 2.8 percent of the total population, there is no problem. Well, I am sure there would be no greater problem for the Governor of Colorado if his Negro population was 10 percent.

In some counties in the State of Mississippi, the Negro population is 60, 70, or even 80 percent. You can immediately see that the problem of integration is too big to overcome. This plan can be worked out and properly coordinated by the Department of Labor through the U.S. Employment Service.

Gentlemen, you cannot legislate social customs. You cannot force a man to use his property in a way he does not want to use it. You cannot force him to accept a group or race into his place of business or into his home, into his hotel, against his will.

If this legislation is passed, it will be impossible to enforce. The people are just not going to stand for having their rights destroyed to appease a minority element within our Nation.

Now, I want to make one thing clear to you, gentlemen—that regardless of what you do or what you do not do, what you are trying to enact into law to force people to accept another group is wrong. It is wrong morally; it is wrong legally. The only way people are going to accept another group, or another race, is upon a voluntary basis. You must leave it to each individual community, each individual city, each individual State, to handle their internal affairs. This was the intent of the framers of the U.S. Constitution.

Now, of course, you realize that what I am proposing cannot be done overnight. It is something which will have to be worked out on a gradual basis so that these Negro families from throughout the South and other congested areas can be assimilated into these Northern and Western communities with little or no social problems.

Let's take an example. We have a population of the State of Minnesota of 3,371,000 people; therefore, we will shoot for a goal by 1973 to have 387,000 Negroes living in the State of Minnesota. It will then be the responsibility of that State to work out through its civic organizations, its clubs, its churches, as to how many Negro families will be assimilated into each community. Each community will then work to provide the necessary homes and jobs and other necessary facilities to assimilate these families into their communities over a period of years.

The relocation would be on a gradual basis, stepped up over a period of 10 years. The first year only bring in 5 percent of the total number of Negroes planned for a community, the next year up to 7 or 8 percent, then possibly the next year 15 percent, and so on until you have reached the goal set out for a community.

Now, of course, you are going to see through action such as this the relocation of white families also. You will see that in some communities white families will move out. This will be fine. Because, naturally, in the State of Mississippi we do not want to drop our population from 2,200,000 down to 1,200,000.

We will immediately assume that we will, in turn, begin to receive white people from other States who will move into Mississippi as additional jobs are created within our State.

The government of each State will have to assume the responsibility of coordinating the setting up of schools to train the Negro population moving into these areas in accordance with the opportunities that would be made available to them in these communities. A testing program would be set up to see what job each Negro is best qualified to perform.

Gentlemen, this is the only practical solution to this race problem. It is a problem of numbers. Some cities in the North where the Negro population is out of proportion to the white population will have to relocate some families. I am sure that consideration will be given to relocating some of the Negroes who have moved into Washington,

D.C. The city of Chicago would want to participate in the plan to relocate some of the Negroes out of Chicago into other parts of Illinois.

At the recent Governors' conference in Miami, many of the Governors indicated that they would foster, promote and work in every way for integration of the races. If that is what they want, fine. We in Mississippi and in many parts of the South do not want integration. For those Governors who want integration in their States, this plan would make it possible for them to have their proper share of the Negroes so that they could carry out a complete plan of integration in every community within their State.

I feel sure that all of those Congressmen and Senators who are promoting and advocating the civil rights bill and complete integration of the races will cooperate in such a program to the fullest extent in carrying out the plan of relocating the problem, so that the solutions they have found to be so successful in their States can be put together with the problem.

I am very sincere in this. It is the same as the Cuban problem that is being flaunted about in this country day by day.

Many of the States have communities where full, complete, total integration of all facilities, both public and private, are ready to assimilate the Negroes.

I am sure that the President and the Attorney General would be willing to take the leadership in encouraging and urging the full co-operation of all the people throughout all of the Northern and Western States in relocating the Negroes. In this manner the rights of the individual, the property rights of our people, would not be infringed upon in violation of the Constitution, as the problems which this force legislation seeks to solve would be solved by freemen in a free society.

Thank you very much. That is the end of my statement.

Senator PASTORE. Thank you very much, Mr. McLaurin.

What if the Negroes decided not to be moved?

Mr. McLAURIN. Senator, I made it perfectly clear that this plan would work on a voluntary basis.

Senator PASTORE. Voluntary for whom? I am asking you the question.

Mr. McLAURIN. For the Negroes. I do not advocate force legislation. I advocate a plan whereby this could come about, and if your job opportunities are so attractive in the North and the West for them, then possibly they would want to come to the North and West, and you should make those job opportunities available to them and up the percentage of your Negro population.

Senator PASTORE. Well, is that not the situation today? No one stops the Negro from moving from the South and coming to one of the Northern States.

Mr. McLAURIN. Senator, this plan should be an invitation to them and should be promotive to come into your areas, and you should make it attractive to them so that they will want to move there. It is such a haven for them up there.

Senator PASTORE. I do not mean to be facetious, and I do not mean to be impertinent about this question, but what if they decided not to move?

Mr. McLaurin. If they decided not to move, if they like it better somewhere else, they would not be compelled to move.

Senator Pastore. And then would you not just have the same situation as you have got now?

Mr. McLaurin. Well, certainly if it was promoted in the right manner there would be a change over the country.

Senator Pastore. Would you want to say anything about S. 1732, the bill?

Mr. McLaurin. Senator and members of the committee, the law has been covered thoroughly by Governor Barnett, who preceded me here. I would like to say that in regard to this bill similar legislation has been held unconstitutional by the U.S. Supreme Court in the *Civil Rights Cases* of old, and in the *Howard Johnson Case* of 1950, and what this Congress is attempting to do is to enact legislation in the face of Supreme Court rulings which have already held similar legislation to be unconstitutional.

Senator Pastore. I only have one more question, and I do not mean any impertinence by this. I am trying to understand this in my own mind.

If your plan, which you talk of as being practical, resolved itself so that you would end up in Mississippi with your aggregate Negro population 10 percent of your white population—I think that is the formula that you have developed here—would you then be for S. 1732?

Mr. McLaurin. No, sir. I made it clear that there would be no need for the enactment of this legislation.

Senator Pastore. In other words, you would not allow, even if the Negroes were 10 percent of the population in Mississippi, an American soldier of Negro skin, wearing the American uniform, to go into a drugstore and buy a Coca-Cola next to a white soldier? You would not be for that?

Mr. McLaurin. Senator, let me say this now: That a Negro soldier can go into a drugstore and buy a bottle of Coca-Cola now in Mississippi. If you go down there you would find that out.

But I want to make this clear: That I am advocating the American way.

Senator Pastore. But I mean can he go to a place where the white soldier goes?

Mr. McLaurin. Now, you referred to a drugstore.

Senator Pastore. Yes. That is what I am talking about.

Mr. McLaurin. He can go to a drugstore and buy a bottle of Coca-Cola any day in the week.

Senator Pastore. Now, can he get a room in a motel?

Mr. McLaurin. No, sir, he cannot. Not in a white motel.

Senator Pastore. That is what I am talking about.

Mr. McLaurin. But I want to say this in answer to your question: That I advocate the American way, which has made this country great over a period of 175 years, the free enterprise system. And an infringement upon private property rights would not be the American way. I believe that a man's property is to do with as he wishes to do with.

Senator Pastore. Well, do you believe that to discriminate against an individual of dark skin is the American way?

Mr. McLaurin. I believe—

Senator PASTORE. This works both ways. It all depends who you happen to be.

Mr. McLAURIN. I believe that a person who operates a business establishment should be able to turn away any person he desires not to serve whether he be white and drunk or white and sober, red, yellow, or black.

Senator PASTORE. What if he happens to be a Negro scientist who is down at Cape Canaveral to make a great contribution to the security and defense of the country?

Mr. McLAURIN. So what? I think that if a man owns a business establishment, under the American way and under the Constitution of the United States as we have known it for 175 years he should be able to treat his private property as he desires to treat it.

Senator PASTORE. And one further question. You do believe in segregation of the races?

Mr. McLAURIN. I certainly do.

Senator PASTORE. Senator THURMOND.

Senator THURMOND. Thank you, Mr. Chairman.

Mr. McLaurin, as I construe from what you say, it is your opinion that a man running a private business establishment, whether it is a restaurant, a motel, a barber shop, a beauty shop, or other private business, should have the right to serve people of any race or turn down people of any race of his own volition without giving any reason or excuse to anyone, because it is his own private property; is that correct?

Mr. McLAURIN. That is entirely correct, Senator.

Senator THURMOND. I believe the editor of the Richmond News Leader testified that in Richmond, Va., there are two restaurants side by side. One is integrated; the other is segregated. The owners of those restaurants chose to do business in that way. Is that the American way?

Mr. McLAURIN. That is.

Senator THURMOND. And if a restaurant wants to serve Negroes, why should it not be allowed to do so? If they do not wish to serve Negroes—and I say Negroes, but it would apply to Indians, Mexicans, foreigners, or white people, anybody else—if he wants to serve any particular clientele of customers, under our American system of freedom and under our Constitution, then, he would have a right to the control and use of his own property to serve those customers.

Mr. McLAURIN. He has that right and should be allowed to carry it out.

Senator THURMOND. Do you feel that the Federal Government should exert compulsion, Federal compulsion, with all of the power of the Federal Government, to force a man on his own private property to do business with anyone if he does not want to deal with?

Mr. McLAURIN. I do not.

Senator THURMOND. Is it your feeling that if this law should pass that there would be swarms of investigators, inspectors, and others who would be snooping about people's businesses asking to see their records, to see where people came from and investigating to determine if they had refused to serve someone they did not wish to serve?

Mr. McLAURIN. There would be no question about it, Senator. They would be there, and they would harass many businessmen out of business.

Senator THURMOND. Under the 5th and 14th amendment to the Constitution which provide that no person shall be deprived of life, liberty, or property, do you feel that for the Federal Government to attempt to exercise the right to dictate to a citizen to whom he must serve or to whom he must sell is depriving him of his property?

Mr. McLAURIN. There is no question about it, Senator; that is correct.

Senator THURMOND. Is it not equivalent to a taking of a person's property without due process of law if he is forced to serve any particular group and it destroys his business?

Mr. McLAURIN. It is taking his property without due process of law; yes, sir.

Senator THURMOND. Our Constitution was provided to give protection to our people. Property is only one right of a citizen, along with other rights.

I think the distinguished Governor of Florida made a very fine point here on last Monday that there is no such thing as property rights. It is human rights in property. And human right in property is just as much a human right as any other kind of human right.

Do you agree with that?

Mr. McLAURIN. That is right; yes, sir.

Senator THURMOND. I want to ask you this: Do you feel that more change will come about through voluntary means or through a Federal compulsion law?

Mr. McLAURIN. Through voluntary means.

Senator THURMOND. The mayor of a town in Maryland—I forget the name of the town—

Mr. McLAURIN. Cambridge?

Senator THURMOND. I do not believe it was Cambridge. I think it was another city over on the Eastern Shore.

Senator MORTON. Salisbury.

Senator THURMOND. Salisbury. Thank you.

He testified that they have brought many changes there and said that those changes came about through voluntary means and not even a city ordinance or a State law, because that section, as I understand, was exempt from the State law.

And he went on to say that if there had been a Federal law such as is now being proposed here that it would have handicapped their activities and they could not have accomplished what they did.

Do you feel that a similar situation would exist not only in Mississippi but in many other parts of the country?

Mr. McLAURIN. Yes, sir.

Senator THURMOND. The mayor of Atlanta testified here, and he listed about 10 changes that he said had been made in the city of Atlanta. The matter of the schools, and the swimming pools which he said could have closed but voluntarily kept open, were the only two changes that were affected by any decision of a court, that the rest of the changes were made on a voluntary basis.

Do you feel that if there had been compulsion and telling people whom they had to serve or whom they had to sell to that they could have brought such changes about?

Mr. McLaurin, The changes most probably would not have come about, Senator.

Senator THURMOND. Senator McLaurin, in your activities as a State senator, I am sure you have dealt not only with many people in your home county but in other counties of the State of Mississippi. In your contacts has it been your opinion that there was a good relationship between the races until the agitation began led by people from outside of the State of Mississippi?

Mr. McLaurin. That is right. Senator, there was an excellent relationship between the races. It has been tested somewhat. But still we have an excellent relationship between the races.

Now, I think that was best demonstrated some 2 or 3 months ago when these agitators came into Jackson, Miss., to try to incite some demonstration, and they could not get the colored people there or the Negroes in Jackson to demonstrate. They just could not do it. They could not get a following there, and they had to leave.

So our relationship is fine with the Negroes in Mississippi at this time. There is no question about it. But this force legislation just will not work.

Senator THURMOND. If this legislation should pass, is it your feeling that there would be a division brought about between the races that is unnecessary and will hamper the fine relationship that exists between both races in the State of Mississippi?

Mr. McLaurin. Senator, there is no question about that. If this legislation passes, all that it will do will be to create turmoil, trial, tribulation, and trouble, in our State.

Senator THURMOND. When Governor Barnett was here, I believe he brought some information indicating certain leftwing or Communist connections with certain of the leaders of demonstrations. As I understand, subsequently, some members of the committee wanted more evidence, or at least they had doubts about those matters. So what you have done today is to bring to the committee information that you felt would be helpful and you would like for the FBI or the Internal Security Subcommittee of the Senate or the House Committee on Un-American Activities to look further into this matter?

Mr. McLaurin. That is what I am asking the committee to do, to have the FBI substantiate these charges that I have made here today. They have the information in their files, the Federal Bureau of Investigation. And also I think that Martin Luther King should be called in to testify and should be put upon cross-examination here.

Senator THURMOND. I would be very pleased if he is called in. I would like for him to be called.

Senator McLaurin, I could ask you many other questions, but we have two more witnesses this morning, and time is running short.

I want to say that it is a pleasure to have you here. You have a reputation for being an outstanding State senator, an able lawyer, a true patriot, and a great American, and we appreciate the contribution you have made here today.

Mr. McLaurin. Thank you, Senator Thurmond.

Senator PASTORE. I think the record ought to show as well that, just to prove the fairness of this committee, Mr. McLaurin here is testifying at the invitation of Mr. Thurmond.

Senator THURMOND. That is correct, and I am very proud to have him here.

Mr. McLAURIN. Are there further questions from the committee?

Senator PASTORE. Oh, yes. Yes.

Mr. Cotton.

Senator COTTON. Senator McLaurin, I can sympathize with and accept some of the good points you have made in your statement. I cannot let one thing pass, however, and this question is not asked in a frivolous or unfriendly way.

Southern hospitality is famous. And I am married to a southern wife, and my good friends Senator Eastland and Senator Stennis have heightened my admiration for it.

But this invitation you extend on page 10, I do not know just what authority you have to extend it. But you suggest that the misguided people of the North—you say the only way you know they can be corrected—come to see for themselves, "come visit our State, talk with the people, both white and black."

Now, do you seriously believe that it would be a healthy pastime for a northern Yankee to go down to Mississippi right now and start nosing around talking to the white and colored people about their racial relations?

Mr. McLAURIN. Senator, if you would come down there and just look at the situation for yourself and ask the people, ask the colored and white, whether they are content and whether or not this bill would be a good thing for our relationship, that is what I mean. I would like for you to come down and see.

Senator COTTON. Well, thank you. I would love to visit your great State, but I think I will select some other time and—

Mr. McLAURIN. You would be treated with the greatest respect I would say.

Senator COTTON. I do not think I will go around asking questions of either white people or colored people down there right now.

Mr. McLAURIN. Senator, let me say this: That it is not as bad down there as it is up here.

Senator COTTON. Well, that may well be. Maybe I can—

Mr. McLAURIN. We are not having the trouble you are having up here.

Senator COTTON. Thank you, and I am glad to be assured of that.

That is all, Mr. Chairman.

Senator PASTORE. Mr. Bartlett.

Senator BARTLETT. In line with what the Senator from New Hampshire said, Senator, I am reminded that the Democratic national committeeman for Alaska was down visiting in Mississippi last January, and he was totally uninformed about local customs, and he found himself through pure error he told me, not having looked at any signs, in a lavatory reserved for colored people. He was manhandled a bit by a State trooper, who termed him a "northern agitator." His plea of innocence was he was not any such thing, he was just merely a man seeking a lavatory.

You said, Senator, that the Southern Conference for Human Welfare was founded at Birmingham in 1938 and that Eleanor Roosevelt was the principal speaker.

Was the Southern Conference for Human Welfare at that time alleged to be inspired and led by the Communist Party?

Mr. McLAURIN. Senator, I believe you will find that in the exhibit that I have introduced, which is on page 39 of "Communism and the NAACP."

Senator BARTLETT. Well, I did not have the privilege of being here, Senator, to hear all of your statement, so I wondered if you would just inform me.

Mr. McLAURIN. Senator, I will read you from the information that I brought before the committee if it suits you.

Senator BARTLETT. Just briefly.

Mr. McLAURIN. I am furnishing documentary evidence here.

Senator BARTLETT. I am curious. That is the only reason for this question. I wanted to know if it was suspected at that time of being a Communist organ.

Mr. McLAURIN. I do not believe that it was at the time that Eleanor Roosevelt made her speech.

Senator BARTLETT. You say it was?

Mr. McLAURIN. I do not believe that it was at the time. It was later discovered by the Dies committee that the purpose for the organization of the Southern Conference for Human Welfare was to promote the Communist conspiracy in the Southland.

Senator BARTLETT. Is the Southern Conference for Human Welfare still in being?

Mr. McLAURIN. No, sir. It metamorphosed into the Southern Conference Education Fund. And the Southern Conference Education Fund occupies the same suite of offices, the same telephone number, the same executive director that the Southern Conference for Human Welfare occupied prior to that time and is now being operated by Dr. James A. Dombrowski.

Senator BARTLETT. Is it said that this successor organization is dominated by Communists?

Mr. McLAURIN. Dombrowski has been identified as such.

Senator BARTLETT. How about the organization itself? Is it suspected of being so dominated?

Mr. McLAURIN. Yes, sir.

Senator BARTLETT. Now, you said in telling about the founding of the Southern Conference that this was done with the blessings of the White House. In what manner did the White House confer its blessing?

Mr. McLAURIN. The lady of the White House was the principal speaker at the organizational meeting in Birmingham, Ala., in November 1938.

Senator BARTLETT. Was it believed then or later that Mrs. Franklin D. Roosevelt was purposely seeking to do that which would enlarge the strength and the base of the Communist Party in America?

Mr. McLAURIN. I am not going to go to the extent of accusing Mrs. Roosevelt of being a Communist. If that is what you are trying to lead me around to do, I am not going to do that, but all I can do—

Senator BARTLETT. Well, you came awfully close to it I thought in your statement, sir, and so I thought I had a right to ask that question.

Mr. McLAURIN. Well, I would not do that.

Senator BARTLETT. All right.

Now, what is this college down in Jackson?

Mr. McLAURIN. Millsaps College.

Senator BARTLETT. No; there was another one there.

Mr. McLAURIN. Oh. Tougaloo.

Senator BARTLETT. And John Salter is a white professor there. Is this a college for Negroes?

Mr. McLAURIN. That is right. It is right outside of the city limits of Jackson, Miss., about 8 miles north of Jackson on Highway 51.

Senator BARTLETT. What is it? A liberal arts school?

Mr. McLAURIN. How's that?

Senator BARTLETT. Is it a liberal arts school?

Mr. McLAURIN. Yes.

Senator BARTLETT. Now, you said that he has been under the surveillance of the FBI.

Mr. McLAURIN. That is right.

Senator BARTLETT. Has the FBI so stated?

Mr. McLAURIN. Let me say this to you, Senator. I do not have the documented proof with me. However, I would like for you to call upon the FBI for their file. They have a file on John Salter. It is, I believe, about an inch and a half thick the best I can determine.

Senator BARTLETT. The FBI?

Mr. McLAURIN. Yes, sir. And I will state as a matter of fact that John Salter has been under the surveillance of the Federal Bureau of Investigation.

Senator BARTLETT. I certainly do not deny that. I never heard of the man before.

Mr. McLAURIN. Yes, sir.

Senator BARTLETT. Now, you quoted a statement that he made to a certain other professor in which he said, and I quote:

I am a Marxist-Leninist and my intent and purpose is to destroy the capitalistic system in this country.

I am wondering if you know if that statement was ever placed before the administrative officials of the college at which he teaches.

Mr. McLAURIN. Senator, I do not know whether it was or not, but I do not think it would make any difference.

Senator BARTLETT. You think he would be maintained on the faculty in any case?

Mr. McLAURIN. Yes, sir.

Senator BARTLETT. Thank you. That is all.

Senator PASTORE. Mr. Morton.

Senator MORTON. No questions.

Senator PASTORE. Mr. Prouty.

Senator PROUTY. I have no questions.

Senator PASTORE. Mr. Hart.

Senator HART. Senator, I apologize. Two constituents came to see me. You understand the importance of my absence.

This notion of Federal assistance in a relocation effort so long as it had no racial implications is a cause that many of us here in the Congress have supported for a long time, and we have not always found support from certain regions of the country. I hope that you will be leading an effort to encourage relocation allowance, transportation allowance, family allowance to permit movement of peoples to places of economic opportunity. This is a good concept.

But I reject completely, of course, the racial implications that would be contained in the formula that you are suggesting.

And I do not know whether any question was asked with respect to the rôle that Communists are playing in the current efforts to obtain enactment of this legislation, but I am confident that the witnesses who have appeared before this committee in support of this bill are devoted Americans dedicated to broadening areas of opportunity here at home and making us look better elsewhere in the world. That is a shorthand way of indicating my feeling.

Mr. McLAURIN. You did not place it in the form of a question, but could I make a statement on that?

Senator HART. Yes.

Mr. McLAURIN. Now, the proof that I brought before the committee or the evidence I might say is evidence to show that there is a causal connection between the Communist conspiracy and the Negro demonstrations that are being carried on through this country at the present time.

Now, as I understand it, this legislation has been promoted as a result of the Negro demonstrations that have been carried on in this country. I believe that the President and the Attorney General, if I am not wrong, have made statements to the effect that we have got to pass this legislation to cut those out. So that brings about a causal connection between the Communist conspiracy and the legislation.

Now, that is the point I am bringing to you.

Senator HART. I think that this legislation is desirable and overdue. I would be surprised if Communists would be so stupid as not to seek to exploit this situation as they seek to exploit every situation where our practices do not jibe with what we preach.

In this sense it is a moral proposition with me as I am sure it is with the priest, or the rabbi, or the minister who urged us to enact this bill.

I had asked my office to send the Civil Rights Commission's reports. I regret that my meeting held me so long that I am not able to open to the page that discusses voting opportunities in Mississippi.

But the bill that is before the distinguished Senator who introduced you, Mr. Eastland's committee, contains that title that will increase the strength of the Justice Department in seeking to open this opportunity to Americans, and I think there is no need to ask leave of the committee to insert in the record at this point the summary of voting opportunities in Mississippi.

(The information referred to follows:)

EXCERPT FROM THE 1961 U.S. COMMISSION ON CIVIL RIGHTS REPORT

MISSISSIPPI

In Mississippi whites comprise 63.0 percent of the population 21 years old or over; nonwhites 36.1 percent. Figures on voter registration are available only for Negroes, and only for 69 out of the 82 counties in the State. In these counties, where Negroes constitute 37.7 percent of the voting age population, only 6.2 percent of the voting age Negroes are registered to vote.

In 18 Mississippi counties no Negroes are registered. Negroes represent 0.0, 14.2, 19.7, 25.3, 30.3, 32.3, 33, 35.4, 49, 56, 62.6, 63.8, and 68 percent, respectively, of the total voting age population in these counties.

In 42 counties less than 10 percent of the voting age Negroes are registered. In these counties the Negro voting age population ranges between 4.3 and 74.3

percent of the total voting age population. In the two median counties Negroes account for 40.8 and 42.7 percent of the voting age population.

In 12 counties between 10 and 24 percent of the voting age Negroes are registered. In these counties the Negro voting age population ranges between 5.2 and 62.6 percent of the total voting age population; the two median figures are 30 and 30.7 percent.

In two counties between 25 and 49 percent of the voting age Negroes are registered. Here the Negro voting age population is 17.3 percent and 27.6 percent, respectively, of the total voting age population.

In none of the 60 counties for which information is available are 50 percent or more of the voting age Negroes registered.

Senator HART. It is generally known. And I think here that anyone who is in a position of authority in Mississippi can assist freedom's cause by insuring that the kind of figures that the Civil Rights Commission presents in terms of Negro registrations in Mississippi are changed.

I think this will enable citizens of Mississippi to make more responsive to their ideas of right and wrong the laws of Mississippi, which goes at least to the argument of whether the Federal Government should do anything.

Thank you very much, Senator.

Mr. McLAURIN. Thank you.

Senator PASTORE. Our next witness is Mr. William Loeb, president of the Union Leader Corp., Manchester, N.H.

I understand our distinguished colleague would like the privilege of introducing our witness.

Senator CORRON. Mr. Chairman, although in justice to our colleague Senator Thurmond I must say that his was the original invitation to Mr. Loeb to appear before this committee, I desire and value the opportunity of introducing him to my colleagues on our committee.

Mr. Loeb is the publisher of the leading newspaper in the State of New Hampshire, the newspaper with the largest circulation.

He is the publisher of other papers in other States.

He is not a legal resident of New Hampshire I regret. He lives over the line in Massachusetts, which is not a testimonial to his good sense.

His background is interesting. He mentions some of it to his manuscript I notice. But he is the son, was the son, of Theodore Roosevelt's confidential and private and extremely influential secretary.

Mr. Loeb has for many years been a potent force in my State, always for the causes in which he believes. He has not always been right. In fact, he has been wrong a few times because on a few occasions he has opposed me. [Laughter.] But he is still my valued and cherished personal friend and a man of extremely fearless devotion to his convictions. And while I have not had the opportunity to read all of his statement, I know that whatever he says here today will be with deep sincerity and I am sure will be of interest and aid to the committee.

Senator PROUTY. Mr. Chairman, will the Senator yield?

Senator CORRON. I am glad to yield.

Senator PROUTY. I might say Mr. Loeb is a longtime friend of mine. He is publisher of two newspapers in Vermont. And I might agree with Senator Cotton that he has been wrong on occasion because he has not always approved of my position on various questions. But I am delighted to see him here, and I know that he will have a very interesting and forthright statement which will be entirely beneficial to the committee.

I might say, Mr. Loeb, that it is possible that I will be called away before you complete your statement, and I hope you will forgive my absence.

It is nice to have you here.

Senator PASTORE. Mr. Loeb, in the tradition of fairness of this committee and its desire to dispense equity, you have a right of rebuttal before you start your statement.

**STATEMENT OF WILLIAM LOEB, PUBLISHER, MANCHESTER (N.H.)
UNION LEADER AND OTHER NEW ENGLAND NEWSPAPERS**

Mr. LOEB. I was only going to say, Mr. Chairman, that the record should show that both these two distinguished Senators are not running soon—I think Senator Cotton is not running for another 5 years and Senator Prouty for some time—so that we presume their remarks were made without prejudice.

Senator PASTORE. All right, Mr. Loeb, you may proceed.

Mr. LOEB. This committee has heard testimony from many nationally known witnesses. Since I am not known to more than two members of your committee, or possibly three, it might help the committee in evaluating my testimony and my viewpoint if I give you a little of the background from which I approach this most serious subject.

I am a northerner. I was raised, schooled, and have made my living in the North.

My first recollection of any contact with the problem of discrimination came when, as a child, I heard my parents discussing, with approbation, the fact that President of the United States, Theodore Roosevelt, had become the first President of the United States to invite a Negro to lunch with him in the White House. The Negro was Booker Washington.

This especially interested me because when I was born here in the Nation's Capital I had the honor of having President of the United States Theodore Roosevelt and Mrs. Roosevelt as my godfather and godmother. Naturally I, therefore, was greatly guided and inspired by the principles of Theodore Roosevelt.

I grew up in an atmosphere in which every individual was received and judged on the basis of his character, his intelligence, his accomplishments, and not because of his color or his religion.

I have always believed—and do now believe—in that principle.

My principal newspaper, the Manchester Union Leader, which is the largest daily newspaper published in the State of New Hampshire, and my other New England newspapers do not discriminate in any way in our news columns or otherwise.

When a Negro girl is married she receives the same size picture and the same type of position on the women's page as do the white brides on that same day and week.

As a matter of fact, coming down on the airplane yesterday I happened to be catching up on my reading and I read the Haverhill Journal, a Massachusetts evening paper. And I turn to a page of the Haverhill Journal I hold in my hand, and I see on the social side a picture of a bridal fete, golden wedding, and a bon voyage party, and right below that in the middle of the page I see a picture of a colored lady and two colored gentlemen, and the title is "NAACP Barbecue." And it describes the fact it was a very successful bar-

became, and there is a very adequate story given to this event in the colored community in Haverhill.

Proceeding, my newspapers in Vermont have pioneered, as long as 20 years ago, in the bringing of colored children from Harlem for a vacation in the cool hills of the Green Mountain State.

During the height of the Congo crisis, our newspaper was, to the best of my knowledge, the only white-owned newspaper which employed a Negro correspondent in Africa. We carried, during several different periods, a very penetrating series of articles by Philippa Schuyler, the distinguished concert pianist and writer, whose father, George Schuyler, is the New York editor of the largest Negro weekly in the United States, the Pittsburgh Courier.

Senator COTTON. Mr. Chairman, I wish Mr. Loeb would try to speak more directly into the microphone.

Senator PASTORE. Will you do that?

Mr. LOEB. I beg your pardon.

Senator COTTON. The committee has charge of communications all over the world, but we cannot seem to communicate in this room, and I was just afraid that the audience was not able to hear.

Mr. LOEB. Repeating, we carried, during several different periods, a very penetrating series of articles by Philippa Schuyler, the distinguished concert pianist and writer, whose father, George Schuyler, is the New York editor of the largest Negro weekly in the United States, the Pittsburgh Courier. Mr. and Mrs. Schuyler are old friends of Mrs. Loeb's and mine.

Later I attempted to interest other newspapers and press services in making use of what our paper considered Miss Schuyler's outstanding abilities, but largely to no avail. On only one occasion was I successful.

I think I can, therefore, honestly say that I am most sympathetic and desirous of helping all people, especially those in the United States, to achieve the highest position and happiness of which they are capable, without any regard to the color of their skin or the type of their religion.

Because of that deep feeling and conviction, I have read with sadness much of the testimony in support of S. 1732. Most of these individuals giving such testimony have been obviously well meaning and well intentioned. They want to right what they consider to be a great wrong. They want to do it immediately. They cannot wait and they are not particularly concerned with the means that are used.

Although it would shock these earnest and sincere individuals to be told so, they seem to have almost no comprehension of how the American system works or of the past failure of such efforts as they propose.

What the proponents of section 2 apparently do not seem to understand is that you cannot create brotherhood by bayonet.

You cannot pass laws that will make people like each other.

Furthermore, when you pass laws that try to do that, you create a police state. You destroy the freedom of American citizens.

You cannot force Americans to associate with people they do not like.

There are many unfortunate types and undesirable forms of human behavior for which the remedy is not to be found by passing laws. It is to be found by education and by religious teaching.

Senator PASTORE. May I interrupt you, Mr. Loeb? I have just been notified I have to appear at the Joint Committee on Atomic Energy, and I therefore turn the chair over to Mr. Thurmond.

Will you take over the chair, please?

Senator THURMOND. Thank you.

You may proceed, Mr. Loeb.

Mr. LOEB. Repeating, there are many unfortunate types and undesirable forms of human behavior for which the remedy is not to be found by passing laws. It is to be found by education and by religious teaching.

When an attempt has been made to use the law instead of religion and education, the results have been disastrous. We have only to cite the prohibition amendment.

This committee, as I study it, seems to be made up of men mostly in their youthful middle age, so it is unlikely that any sitting here today will recall the moral fervor and excitement of the crusaders who flocked into these same Halls of Congress to plead most eloquently for the initiation of a constitutional amendment which would forever remove from the American home the demon rum and all his side effects which, according to the sponsors of that legislation, encompassed almost every evil of which mankind was capable.

The proponents of the prohibition amendment wrapped themselves in even more sanctimony than the supporters of the civil rights legislation. Anyone who opposed the prohibition amendment was described as being either in the pay of the rum barons or just a degenerate who proposed the degradation of the male population and the desecration of the female section of our Nation, not to mention the starvation of the dependent children of those who had been so degenerated and so desecrated. Thus exhorted, Congress and the several States passed the amendment.

However, alas, instead of the perfect heaven arriving on the morrow, mankind was not only one bit better but it became a great deal worse during the prohibition era.

Since the consumption of alcoholic stimulants had now become a forbidden pastime, millions who had never thought of taking a drink became intrigued with the idea. Finally men, and especially women who never would have been caught dead in a saloon, found it fashionable, intriguing, and a great deal of fun to patronize speakeasies, where they consumed alcoholic beverages of a type and quality which would have made any honest bartender of the prohibition era hang his head in shame or jump off the Brooklyn Bridge, had he ever attempted to swindle his patrons with such products. Not only were a number of dependent children left homeless and without proper nourishment because of their parents' indulgence but, unfortunately, many of the teenaged ones were taught to drink during the moral laxness that accompanied the prohibition days.

Finally, the untaxed proceeds of this fantastically lucrative business went to finance the underworld activities and ventures of the gangster elements of our population.

Finally, the "sinners" had their way and the prohibition amendment was repealed.

Since then the alcoholic beverage industry has become a responsible business, once again providing huge amounts of revenue, not only to

the Government which enables us to sit here in this nice air-conditioned room but also to the State governments.

The criminal elements have been deprived of their illegal source of funds from at least this traffic.

While Washington, D.C., I believe, has the highest per capita alcoholic consumption of any city in the Nation, the rest of the country seems to be improving in its sobriety and in intelligent consumption of stimulants.

I hasten to add that I own no stock in any distillery or other organization manufacturing or selling alcohol. Furthermore, my own alcoholic intake for the entire year is so little that if I represented the average, the distillers would starve to death and tax revenues of the United States would be greatly diminished.

I think drinking is a silly business in most cases, and often terribly wrong in others. I feel that the amount of money spent on alcohol in this country each year if devoted to medical research could go a long way toward solving the terrible scourges of cancer and heart disease.

However, even though I feel that way I would, nevertheless, never think of urging that a law be passed abolishing drinking, not only because of the experience with the prohibition amendment that I have just cited but because the greatness of America rests on the freedom of choice of its citizens. Only by having such freedom of choice can Americans progress and each make his contribution to the greatness of his country.

The teachers of the United States, both secular and religious, and our political leaders can speed the development of the United States by always appealing to the better sense and the better judgment of our citizens to voluntarily make the right and intelligent decisions.

For Congress or for the legislatures of the several States to legislate in an attempt to dictate in the field of personal choice and association is to really destroy the freedom of the American individual. All life is discriminatory. We discriminate when we pick one young lady instead of another to be our wife—or, rather, perhaps more accurately I should say she discriminates.

You cannot do away with discrimination by law. What you can do, and what our idealistic friends should be doing, is teaching and exhorting to make our discriminations on an intelligent basis and not because of the color of a man's skin or his religion.

Let us now turn for a moment to the practical consequences of the law which is proposed. I do not intend to deal with the question of whether it is constitutional or unconstitutional. I am not a lawyer and, therefore, not qualified to give you such an opinion.

Let us, at the outset, take a simple, obvious, and very probable case which would arise in New Hampshire if this law were to be passed.

A resort owner in the White Mountains has a hotel with a long-established clientele, made up mostly of widows from Boston, New York, and Philadelphia, ladies of some small means who have been coming to his hotel for many years because of their ability there to find other old ladies of similar tastes and likes.

The proprietor frankly turns away people with children and young, active couples who would be inclined to change the sedate and rather sedentary atmosphere of his establishment.

You pass this law and a group of Negroes traveling in that area decide they like the place and demand and, under the law, receive accommodations.

This group of Negroes may be doing this in the natural course of their travels or they may be deliberately doing this under a program of one of their militant organizations. At any rate, it doesn't matter which motivation is involved. The old ladies become terribly upset and leave. The proprietor's clientele, which he has carefully built up over many years, is destroyed. He is then placed in either financial difficulties or actually, perhaps, goes bankrupt.

Is anyone happier as a result of that? Has interstate commerce been improved? Has anything constructive, in short, been accomplished by such an arrangement?

Let's take a restaurant. In this case perhaps the owner of the restaurant personally likes Negroes. He has some Negro friends. However, it's a small community, not necessarily even a southern one, and his patrons—who, after all, are the ones who keep him solvent—simply don't like Negroes. A group of Negroes, knowing this, takes advantage of the law and shows up and is served. The white customers, assuming that the white owner has deliberately done this because of his known friendship for Negroes, leave and don't come back. The Negroes then move on to another restaurant, the man is left without any patronage and he, too, goes out of business.

There is nothing farfetched, improbable, or remote about such examples. These will be happening by the thousands across this country if you pass such a law.

In my opinion, gentlemen, this law will create commercial chaos. Rather than improve the commerce of this Nation, inter- or intra-state, it will cause both to deteriorate. Rather than making more jobs, it will make the present unemployment situation worse.

So far I have dealt with what I consider to be the honest misconceptions of altruistic and idealistic men and women who want to right injustice and improve the lot of all mankind. However, these are not the only individuals who demand the passage of this legislation.

It would seem to be important to evaluate the demand for such a law, in view of the probable consequences of it that may be foreseen.

As one watches what is happening up and down this great land of ours, the reasonable observer is led to consider whether much of the demand for this legislation is not the work of politically motivated individuals, black and white.

Only a few weeks ago, no less than a Negro Congressman of the United States stood before a group of Negroes in Englewood, N.J., and is reported to have told them: "We have America by the throat" and again that "the Negroes have the white people on the run" and something to the effect: "Let's keep them there. They are terrified of us."

James Farmer, the national director of the Congress of Racial Equality, is quoted as saying:

Should nonviolence fail . . . then violence is a better course than complete acquiescence to discrimination.

The president of the Washington branch of the NAACP, right here in the Capital City, on May 5 is reported to have said:

Unless America is willing to come to grips with the problem of liberty and justice for all, there is a grave possibility that blood will flow in the streets like it has not since the Civil War.

Recently, Mr. James Meredith, of the University of Mississippi, gave the young people assembled at the annual convention of the NAACP in Chicago some good advice on the fact that the road to success for a Negro in this country is open to those individuals who apply themselves. He was booed. Subsequently, Mr. Roy Wilkins, the national secretary of the NAACP, was quoted as saying that if Meredith had been a white man and said what he said, he might have been killed.

Certainly the scene had all the elements of a Greek tragedy, considering what Mr. Meredith had been through at the University of Mississippi. Now he was being booed by the very people he thought he was representing and aiding.

These demands just mentioned are not the speech of men seeking social justice but, rather, of political demagogues seeking racial domination of black over white.

An observer, watching the demonstrations as they sweep the country, gains the impression that demonstrations have progressed to demonstration just for the sake of demonstration and riot.

Can anyone find any rational explanation for the mass picketing of the hamburger stand in upper New York? The lunchroom involved was long ago integrated as regards both customers and employees. Apparently the percentage of Negroes employed did not suit the particular agitating group. So instead of confining themselves to proper protests, they resorted to picketing that could only be described as completely commercially destructive.

It is obvious that any group of individuals—men, women, or children—can be made discontented and stirred up by skillful and trained agitators. The Governors of Mississippi and Alabama have made charges of Communist agitation among the civil rights demonstrations. Attorney General Kennedy has countered by sending Senator Monroney a letter saying that this is not the case.

Frankly, to me neither seems to have adequately made their case.

The Governors could have made a good case for their statement had they bothered to do the research and substantiate their charge. The cold facts do exist to make the Attorney General's statement entirely unbelievable and entitled to no credibility whatsoever.

In making my statement that the Communists definitely are a factor in the civil rights agitation, I speak as one of the few Americans who ever penetrated the Communist Party without becoming either a Communist or acting as an FBI agent. I know what the policy of the party was in the late thirties, on the subject of racial agitation, and their plans to use it to bring about revolution in the United States. I have no reason to believe that this policy has changed.

Furthermore, there is ample testimony from congressional hearings before the House Committee on Un-American Activities and, I believe, also before the Internal Security Subcommittee of the Senate Judiciary Committee, which illustrate the extensive activity and the great skill of the Communists in stirring up social unrest.

I would also cite the case of Carl Braden in Kentucky as a perfect example of Communist technique in embittering relations between

black and white. Some of the committee may remember that Braden was a white man who moved into an all-white neighborhood and then almost immediately sold his house to a Negro family. Shortly after the Negro family moved in the house was blown up, or at least partially destroyed, by a bomb.

This was cited, of course, as a perfect illustration of the complete brutality of the white people and their viciousness toward their colored brethren.

However, unfortunately for him, Mr. Braden was not as careful a Communist activist as he might have been. It was soon proved that Mr. Braden had bought and sold the house as part of a preconceived plot and, furthermore, had been responsible for the blowing up of the house afterward in an attempt to incite racial tension.

Braden was tried and convicted under the Kentucky State anti-subversive law. He was subsequently freed when the Supreme Court of the United States, in a most unfortunate decision, invalidated all State sedition laws. This had the effect of freeing Braden who was then in jail. This was known as the *Steve Nelson* case.

There is no question that, regardless of whether Martin Luther King or this or that Negro leader at the head of various Negro groups currently agitating, is or is not a Communist, the Communists play a very active role in this present racial unrest.

In connection with Attorney General Kennedy's statement to Senator Monroney, it is very interesting to note a recent column by the nationally known columnist, Holmes Alexander. Mr. Alexander points out that Director J. Edgar Hoover on January 16, 1958, when asking the House Appropriations Subcommittee for funds to run the FBI during the fiscal year, said:

The Negro situation is also being exploited fully and continuously by Communists on a national scale. Current programs include intensified attempts to infiltrate Negro mass organizations. The party's objectives are not to aid the Negroes—but are designed to take advantage of all controversial issues on the race question so as to create unrest, dissension, and confusion in the minds of the American people.

Again, Mr. Holmes Alexander, who wrote the column, points out that if you look through the House Appropriation hearings you will find that on March 8, 1961, Mr. J. Edgar Hoover again said:

The sit-in demonstrations in the South were a made-to-order issue which the party fully exploited to further its ends.

Mr. Alexander points out that then Director Hoover gave names, places, and dates. He mentioned Mr. James E. Jackson and Joseph North as "national Communist Party functionaries" who came around to the demonstrations in Richmond, Va., in February 1960. Mr. Hoover further went on to quote Negro Communist Ben Davis, "the party's national secretary," as stating in March 1960 that Negro demonstrations are the next best thing to "proletarian revolutions."

Mr. Holmes Alexander then goes on to quote testimony given just last year, on January 24, 1962, when Mr. Hoover again came to the House Appropriations Committee for funds and said, in part:

Since its inception, the Communist Party, U.S.A., has been alert to capitalize on every possible issue or event that could be used to exploit the American Negro, in furtherance of party aims. In its efforts to influence the American Negro, the party attempts to infiltrate legitimate Negro organizations for the purpose of stirring up racial prejudice and hatred. In this way the party strikes a blow

at our democratic form of government by attempting to influence public opinion throughout the world against the United States.

Frankly, I think that if any reasonable person in the United States was asked to choose between the recent judgment of the very experienced Director of our Federal Bureau of Investigation on the subject of Communist influence in the Negro agitation and the judgment of the relatively inexperienced Attorney General, I do not think they would hesitate very long in deciding to believe Mr. Hoover.

Incidentally, I noticed copy dated July 26 by UPI from Atlanta that Dr. King admits the association of Mr. Jack O'Dell with his organization, who apparently has been linked with the Communists by various organizations.

Then Holmes Alexander goes on to say:

I have names for future columns showing proved Communists ferrying between Havana and the demonstration sites in American cities, and showing known Communists at the dirty work of teaching Negroes and whites to hate one another.

Finally, from the Communist Worker, in its issue of July 16 of this year:

We urge upon every reader of our paper to find his or her place in that number and to do all in their power to make the Washington mobilization a huge success, a new landmark for social progress and Negro freedom in the history of our country. We urge our readers to respond with energy and self-sacrifice.

The white leadership in the civil rights drive would seem to be equally ill-advised. This is not the forum in which to engage in political recriminations. But it seems to many observers that some of the leading political figures of our Nation in both parties have made most injudicious statements, with an eye not really to the betterment of the Negro but, rather, to the betterment of their own political fortunes by way of the Negro minority vote.

Spectacular telephone calls to the families of Negro leaders and other acts have given the general impression to the demonstrators that the force of the Federal Government is on their side.

There have been many attacks by political leaders on the white people of this Nation. In contrast, words of admonition to demonstrate peaceably, rather than violently, addressed to our colored brethren have been so softly spoken as to hardly be a whisper heard in the land.

A Cabinet official has appeared before this committee and said, in effect, that if he were a Negro he would demonstrate. The organizers of the mass march on Washington have been told by a prominent citizen temporarily residing not too far from here that they are acting in the great American tradition when they march on Washington. Yet the previous marches by Coxey's so-called army in 1894 and the bonus march in the 1930's were all tragic affairs.

The distinct impression is growing in the country that certain political leaders are playing a sort of racial game of "brinkmanship."

It works like this: The mobs are suddenly incited, riots occur, chaos is created in towns which were formerly peaceful. Then after the rioting has taken its toll of nerves and the will to resist, a peace settlement is made in which certain political figures take the credit. Then the rioters move on to another city and the process is repeated.

I notice again in a letter of July 28 that the president of the National Urban League at their annual convention warns that violence will continue in the United States until Negroes have achieved their goals.

This is indeed playing with fire, which was the title of a front page editorial our newspaper carried on this subject some several years ago. This technique disregards the fact that 9 out of every 10 people in the United States are white. These white people, in the North as well as the South, are long suffering and patient, but there comes a time—and I think, gentlemen, it is approaching very rapidly—when the white majority is aroused to the point where, instead of being agreeable to dropping discriminatory barriers, it is becoming so angry that discrimination will increase and relations between white and black will worsen rather than become better.

In the 1960 New Hampshire Republican gubernatorial primary the incumbent Governor, in an election night statement conceding his defeat, attributed his political downfall, in part, to the fact that while Governor he had made a great show of welcoming Negroes to New Hampshire as they came on the so-called "reverse freedom rides."

Typical of what many a white man in the street is saying nowadays is the comment of a white Washington taxi driver who drove me to the Capitol last week. He said, in effect:

"Mister, I don't hate anyone. I don't dislike Negroes. I want them to have every opportunity and chance to which they are entitled.

"However, I think I ought to be able to associate with whom I please and not have forced association pushed on me. My wife and I had a nice apartment here in Washington. Then, when it was desegregated and Negroes moved in, the property went downhill and we had to move over to Virginia to get some privacy and be allowed to protect ourselves.

"Sure, it's all right for the Kennedys. They've got millions. They can have a hundred-acre estate with a big fence around it and keep out the people they don't want. I can't.

"That's not a fair arrangement, Mister, and I want to tell you something—not only I, but thousands like me, are getting tired of being pushed around in this fashion. Don't forget, Mister, there are nine whites for every one Negro in this country. If we get shoved far enough, then the Negro is really in for trouble."

Gentlemen, I submit to you that the passage of S. 1782 will be like pouring gasoline on this blaze of racial hatred. The searing flames from this conflagration will not only consume the vast majority of patriotic and law-abiding colored and white citizens of the United States, but finally it could very well consume the United States, itself.

Gentlemen, the progress of mankind, from the pit to the sublime, is of necessity a long and slow one. This rate of progress did not suit the prohibitionists. It does not suit the totalitarian liberals of our day, who want to make people virtuous by law, immediately, in accordance with their own particular idea of what is virtue.

The history of the prohibition experiment and the miserable example of the totalitarian regimes of Hitler, Mussolini, Stalin, and Khrushchev testify beyond refutation that not salvation but destruction lies down that road.

This committee, I am sure, will not be bulldozed by mobs or threatened into passing legislation, for it is wise enough to know that history shows that any government which legislates under the threat of the mob in the street will not long endure as a government.

If the day ever comes when Senators and Representatives are to have their votes guided by such threats, then the brief, bright years of this Republic are over and, pray God, that shall never be.

Thank you, gentlemen, for the high privilege of appearing before you.

Senator THURMOND. Mr. Loeb, we are glad to have you with us, and first I am going to call on Senator Cotton.

Your newspaper, I believe, which is the largest in the New England States, covers New Hampshire.

Mr. LOEB. Yes, sir.

Senator THURMOND. I have heard Senator Cotton speak of his admiration for you, and I am sure it is a pleasure for him now to ask you some questions.

Senator COTTON. Thank you, Mr. Chairman.

Mr. Loeb, as usual you have made a forthright and reasoned and helpful statement, and as one of your constituents in a sense, as you in a sense are one of mine, I take pride in what you have said.

Naturally I am interested in your comments on our own State, which you know so well and which I know so well, and your comments on the impact of this particular bill as it affects perhaps what has become, since our southern friends stole our textiles and Europeans and foreigners of other nations have taken the rest of it, the best and most lucrative industry in our State, our resort hotel business.

I gather from what you say that you recognize that, unfortunate as it is, that there has always been snobbery among patrons of resort hotels, snobbery that is not just leveled at color but is leveled between whites and is a factor that any manager of a resort hotel has to take into consideration, and, if he does not, he goes out of business.

Is that the substance of what you had to say?

Mr. LOEB. Yes; I think so, Senator.

I think that it is not sometimes appreciated that actually it is the patrons who run the hotel rather than the owner. In other words, a certain group start coming to the hotel and they almost tell the owner who he can take in and cannot take in by the simple process of if he lets in people they do not like they just leave and do not come back.

In a sense they are really the boss. They are responsible for the snobbery if anybody is.

I think I have heard of one very broadminded gentleman in New Hampshire running a hotel who tried to solve the problem by having Jewish people one week and Christians the next week and being quite nondiscriminatory in that fashion, keeping everybody happy and separated. I suppose you might say equal and separate facilities.

Senator COTTON. I read that letter, I think, to Dean Griswold, and he said that what he was trying to do was exactly what the Supreme Court of the United States said you could not do to solve this problem by equal but separate facilities.

You have directed your remarks quite properly to this bill before this committee which has to do with control of privately owned so-called public facilities. Does your opposition to this bill necessarily extend to the other parts of the President's program, some of which

seem to me to have merit, such as a Federal effort to help train Negroes for better jobs and better economic opportunities?

Would you feel that that was a reasonable Federal effort?

Mr. LOEB. I think that is a very desirable thing to do, but I would rather see the States do it than put it in Federal control.

Senator CORRON. Well, I share your distrust of Federal programs, but inherently that is something that ought to be done by somebody, would you not say?

Mr. LOEB. Oh, I think we certainly should give them every opportunity to improve themselves to the utmost capacity of their abilities.

Senator CORRON. And would you also agree that the Federal Government has a duty to see to it that there is no discrimination in job opportunities, certainly in all projects in which Federal money is used, job opportunities between races or anybody else?

Mr. LOEB. Senator, I do not like to see Federal appropriations be used for a club for this or any other purpose. In other words, if we are going to appropriate money for a dam somewhere where a dam is needed, and then you are going to say, "Well, now, you can't have that dam because you are not integrated properly or you're not something else"—it would not be necessarily limited to integration—you get to the point where you completely destroy all local government, State, town, or city. And I do not think that is the right way to run a nation.

Senator CORRON. Well, I do not think we are talking about the same thing. I am not talking about this idea of Congress abrogating and surrendering to the President of the United States the power to withdraw Federal funds appropriated by Congress because they are not properly administered or because a practice is being pursued of which he does not approve.

I am talking about Congress itself providing as part and parcel of a program that is giving employment, that there must be no discrimination between races in the giving of employment on this project, which is a condition precedent and which is a directive, not a matter of giving money and pulling it back or giving money and then seeking to control afterward.

Mr. LOEB. Well, this is sort of trying to control ahead of time, which is what it really amounts to. And again, whereas I would believe in the equal opportunities, I just do not like to see it forced on people in that fashion.

I am afraid I cannot go along with you, sir.

Senator CORRON. How do you feel about the duty of the Federal Government to see that full citizenship rights are accorded to people qualified for the vote, for instance, in all elections in which Federal officials are elected?

Mr. LOEB. Well, I am not a constitutional lawyer, Senator. I think I had better beg off of that except from my little limited knowledge I would like to see the control of voter qualifications that I believe was set up in the Constitution to be in the hands of the local States again, and so I am afraid I cannot go along with you on that.

Senator CORRON. Here is one other question I am prompted to ask. Perhaps I should not ask it.

I thought I knew you pretty well, Mr. Loeb, and I thought I knew most everything about your career. But I am very much intrigued by the paragraph on page 9 where you say you speak as one of the

few Americans who ever penetrated the Communist Party without being either a Communist or acting as an FBI agent.

Perhaps in the interests of safety—I mean not of your safety but in the interest of not betraying methods and means of seeking information—you would rather not elaborate on that. But I am very curious about it. I thought maybe other members of the committee might be.

Mr. LOEB. No; it explains the background of a great many editorials in the paper on the Communist subject.

Americans are not by nature conspiratorial people, and, therefore, it is very hard for them to grasp the fact and believe the fact that there is a constant conspiracy going on in this country toward its overthrow and the fact that your Communist force is not one that you can make a deal with in the United States or in the world, that either we win or the other wins, and peaceful coexistence, so called, is merely the present method of the Communists advancing themselves.

But in the 1930's I headed up the executive committee of an organization called the American Boycott Against Aggressor Nations, in which the entire executive committee, I think, almost without exception was subsequently named before one investigating body of Congress or another as members of the Communist Party.

I had started the first boycott against the Japanese—consumers' boycott against the Japanese—in 1932. And in 1937 it had become the policy of the Communist Party to attempt to block Japanese expansion in Asia, so they revived this committee.

And in those days the technique of the party was to have a completely innocent national committee made up of distinguished patriotic Americans and to have an executive committee under their control and preferably to have the executive committee in turn headed by someone who they thought they could either trust or thought was too stupid to know what was going on. And I think I came under the latter category.

So as soon as I spotted this thing, I thought I would go along for the ride, and, as a result, I had some very interesting experiences and, in my dumb way, sat in on a great many conferences of people high in that particular field of work in the party, listened to their discussions, and it was most enlightening.

For instance, one of the members there, who is still a good friend of mine because he has made a full switch around, was a fellow called Nathaniel (Weil), who was the only man who ever testified that he was in the same cell in the Agriculture Department with Alger Hiss besides Whittaker Chambers. And Nathaniel and Sylvia (Weil) were often in the house in those days. They saw the light and came back to the side of patriotic Americans. They have offered the best book on Castro, "Red Star Over Cuba."

But when you have been inside and see them work you have a somewhat different approach.

I have read in the papers of some of the questions by some of the distinguished Senators in this committee in which they have tried to "pooh pooh" the Communist charges. And I did think both the Governor of Alabama and the Governor of Mississippi with reference to their honored positions made a very poor case for themselves because they made sort of a blanket charge without substantiating it.

I thought the young State senator from Mississippi today in his analysis of the activities of the Communist Party in the field of Negro

agitation made a very thorough job. This is the kind of homework that should be done by a witness before he testifies on this subject.

But it is because of my own experience, Senator, that you have read many of the editorials I have had in the paper.

A friend of mine who owns one of the great New York newspapers right after the war was utterly amazed when I informed the publisher that his chief foreign editor I knew to be a member of the Communist Party.

He said, "He couldn't be. A most charming man. Wears clothes so beautifully. He's my best card when I entertain distinguished people from far parts."

Well, I said, "It's a funny thing your whole editorial policy since this fellow has taken over has been, 'Bring the boys home.'"

This was the Communist line at the moment: Get all the American troops home. You all remember that.

So it goes. You can spot these fellows around, but the average American will not believe it. He is a pretty honest, openminded sort of fellow. He does not want to accept that this conspiracy goes on. He does not want to believe it.

You take the so-called march on Washington. Have you ever thought of one fascinating aspect of this? The press reports are that there are a thousand New York policemen off duty who are going to keep this whole thing in order.

Now, superficially, this sounds like a very constructive move, but think of the longer range implications for the Communist doctrine. You have now taken a step toward what they want to achieve, which is to get the forces which are supposed to maintain law and order on the side of the rioters.

Supposing there is a riot of any kind. How, later, are those thousand policemen going to react in New York City controlling other race rioters?

It is a ridiculous situation. It is the same sort of thing that I think it was Governor Wallace brought out and brought to a certain degree a retraction from Senator McNamara—the edict from the Defense Department allowing off-duty members of the armed services to engage in racial demonstrations.

I mean how crazy can you really get in the United States? Because later on you are going to ask those same troops to put down other racial demonstrations if they get out of hand.

Or suppose white soldiers get in the act on the other side.

The whole thing is just a negation of military discipline, and it is absurd. That is all. But these are all techniques Communists want.

Most people in the United States never studied anything about the Communist Party, so when somebody says, "You dirty McCarthyite," they all shudder, run the other way, and say, "Gee, I'm sorry we brought it up."

But it does exist, Senator, and that is the reason why I know it exists.

Senator COTTON. Now, just to return to S. 1732 for a moment, you have said you are not a lawyer and you did not talk about the legal end of it, but if the commerce clause of the Constitution is used, in the first place, knowing you as I do, I assume, and from what you have said in your statement, you yourself deprecate the drawing of the line

between citizens either in their opportunities or their social opportunities on a color line.

Mr. LOEB. Oh, exactly. Of course.

Senator COTTON. Now, as has already been brought out, we have a small colored population in New Hampshire, but if a competent colored man applied to your paper for a job as a reporter on your paper, would you employ him as quickly and as readily as you would any other competent person?

Mr. LOEB. Oh, certainly. Just as I could not tell you what religion anybody on our paper was practically unless a few of the ones I know well. We employ people of all religions, Jewish, Protestant, Catholic, without any regard.

There is only one question: Are they competent? Are they honorable and honest?

Senator COTTON. Now, if we use the commerce clause of the Constitution, in thinking about our own State do you know of anyway that by law Congress can obliterate discrimination in the restaurants, in the motels along the public highways without doing it in the resort hotels, in the small boardinghouses operated by widows and private people, in the barbershops, in the beauty parlors, in the masseurs salon and the steam baths, in every other service establishment?

Do you know of any way that that line could be drawn? It has got to hit them all or none, has it not?

Mr. LOEB. Well, that is the way it seems to me. I do not see how you can tell whether Mrs. Kennedy's boardinghouse is in interstate commerce or not. I just do not see how you can make that distinction.

Senator COTTON. Well, as a moral matter, if it is wrong for the Statler Hotel to draw a color line—which it does not—but if it is wrong for the Statler Hotel to draw a color line, it is wrong for the man who runs the five-stool hotdog stand, is it not?

Mr. LOEB. Yes.

Senator COTTON. Morally?

Mr. LOEB. Yes.

Senator COTTON. Now, if the Federal Government attempts to do this, it could also, if Congress saw fit—and heaven only knows what Congress may do any time—provide that it would be a restraint on the flow of interstate commerce if anybody rejected families with children or with pets if they happened to be traveling, could it not?

Mr. LOEB. Oh, yes.

Senator COTTON. Would you say the best way to approach this particular part of the President's program—I am talking only about this S. 1732—would be for Congress to submit to the States of this Union and the voters of those States, the legislatures of those States, the opportunity to either enact or reject a constitutional amendment which allows Congress to legislate on public facilities privately owned purely on the question of race or religion, national origin, and let them pass on whether this particular thing should be a subject of a national policy enforced by national legislation?

Mr. LOEB. Well, I would be against such an amendment, but if you want to achieve this result by law, what I call forced association, certainly the amendment would be the forthright and honest way of doing it, and the other way is, it seems to me, rather tortured and I would use the word "sneaky."

Senator COTTON. Thank you. And again I commend you on your presentation.

Mr. LOEB. Thank you.

Senator THURMOND. Senator HART.

Senator HART. Mr. Loeb, your statement was I think without question the one easiest to listen to, and if your editorial page is as interesting reading as this one, I am sure I am missing much by not reading it daily.

Mr. LOEB. I will sell you a subscription.

Senator HART. Sell me or give me?

Mr. LOEB. Sell it to you.

Senator HART. I noticed you sort of looked at me out of the corner of your eye when you cautioned that there were some members of this committee that were not sufficiently persuaded by Governor Barnett and Governor Wallace about this Communist business.

I think I reflect the feeling of those who did find the introduction of that theme disturbing.

I explain it this way. Whether Communists are for or against this public accommodations bill does not prove that it is a good or a bad bill. I know you agree with that. Don't you?

Whether a Communist is for or against this bill does not make it a good or a bad bill?

Mr. LOEB. No; I think it is a factor to be considered though.

Senator HART. In determining whether this is a prudent action for this country or not?

Mr. LOEB. Yes. Because I think the Senator from Mississippi brought it out a little bit—this angle: That in considering the bill, do you not say, "This piece of legislation before us will produce this desirable result; it will produce this undesirable result"? Therefore, in determining whether you should pay more attention to the beneficial results or those harmful results, I would think that you would take into consideration also the amount of demand and the nature of the demand for it.

In other words, you might be inclined to overlook certain perhaps unfortunate aspects of the bill if you felt there was large enough human demand behind the bill.

Therefore, if your demand is in large part synthetic and dominated or at least fomented and increased by Communist agitation, then I think that would bear very directly on how you might feel about voting for the bill. And that is where I think it has a bearing.

Senator HART. Well, I do not think we should be particularly concerned in our action on any bill with the demand.

Mr. LOEB. Maybe I am very naive politically, but I thought many laws were passed just because of the size of the demand for it.

Senator HART. I am sure even without having read your editorial page that you suggested that is the reason many times. And I am not pretending that it does not occur many times. But I am talking about what is right or what is not right, that our conduct should not be based on demand at all.

Mr. LOEB. Well, I think that is a very high and lofty position. I hope it will always be adopted by all Members of the Senate and the House.

Senator HART. I do not pretend it is, but I was anxious to clarify your suggestion that perhaps that is the way we should act. I do not believe in it.

Mr. LOEB. Yes.

Senator HART. Have you ever suggested editorially that it is wrong for a Democrat to oppose a bill just because a Republican introduced it?

Mr. LOEB. Well——

Senator HART. Or vice versa?

Mr. LOEB. I am just trying to think. Maybe the Senator can remember any such occasion or not. This would involve equating of the Democrats with more wrongdoing than even we Yankees think they are capable of.

Senator HART. Or vice versa.

Mr. LOEB. I do not think so, Senator. I understand what you are getting at.

Senator HART. You would agree that that would be wrong for a Democrat to do that? Or would you?

Mr. LOEB. Yes, I think——

Senator HART. Then why do you suggest that it would be wrong for me to vote for this bill just because the Commies are for it or right to vote against it?

Mr. LOEB. Senator, now we get into the whole question whether Communists are a political party or a conspiracy.

Senator THURMOND. Speak into the microphone.

Mr. LOEB. We get into the whole question whether the Communist Party is a political party or a conspiracy. Since I accept the view that it is a conspiracy, I therefore think that if I found the Communist Party at any time supporting legislation which was before me I would examine that legislation with great care. Let's put it that way. More so than if I found, as a Republican sponsoring a bill, also Democrats supporting it. This would be a quite different matter.

Senator HART. This I quite agree, and I think all of us do.

To get back to my concern and that of others about introduction of communism into this hearing. Not alone did we think it unwise to argue that because they are for it that therefore it is bad, to the extent that that might have been a note introduced, we feel that it does not advance our cause here, the Nation's cause.

Additionally, we were anxious to avoid the creation within this country of the very undesirable atmosphere that prevailed not too many years ago where a man had to defend his loyalty instead of establish the wisdom of his position when he said, "I'm for a bill," or, "I'm against a bill."

Our debate here should be over the prudence of enacting this legislation, and we should not generate an atmosphere where because Commies hang signs up that they are for the bill all of a sudden we have got to have a litmus test on who is an American. That is not going to advance the cause a bit.

Mr. LOEB. Senator——

Senator HART. That was why I expressed myself as I did when the note was introduced.

Mr. LOEB. Well, Senator, judging from the amount and the color of your hair, I do not know how active you were during the so-called

McCarthy era; but, believe me, it was not as described to you. The tragedy of the era was that Joe McCarthy, who I knew well and who was a good friend, merely attempted to deal with the most complicated and best organized conspiracy the world has ever seen with the free-swinging methods of a fighting Irishman going into a bar to clear up a row. You cannot do it.

And the tragedy of McCarthy was the fact that he attempted a job which needed being done in such an inept fashion that the Communists were able finally to accomplish his downfall.

Now, believe me, sir, the evils which McCarthy attacked existed then and still exist. The tragedy today is, having done the job as poorly as he did, he was able to create an atmosphere by which it pretty nearly was worth your political scalp to even mention the fact there was a Communist conspiracy in this country.

Unfortunately, as I said, Joe was right, but he was very clumsy the way tried to go at it.

Senator HART. I think you would not find many politicians agreeing with your statement that it is worth almost your political life to be against communism. That in my book is about as easy a device to appeal to the public as any I know.

Mr. LOEB. I do not think it is any more so—

Senator HART. If you want to test the converse, there are not many volunteers here to get up and say, "We are for them."

Mr. LOEB. But you are not supposed to be against it. You are not supposed to be against it either, Senator. You are supposed to be strictly neutral.

Senator HART. You are not describing a single member of the Congress of the United States when you say that.

Mr. LOEB. No; I am just simply talking about general atmosphere you see in the press of the United States.

Take the New York Times as an example. Try to be a militant anti-Communist, and immediately you have an editorial against you about being McCarthy. Or the Washington Post here in town. You would get a Herblock cartoon almost the next day.

Senator HART. Maybe your editorial page isn't as nifty reading as I thought it was.

[Scattered applause from the audience.]

Senator THURMOND [gaveling]. I want to make it plain that there will be no demonstrations, and if anybody attempts to demonstrate we shall ask the policemen to usher them out of this room. No demonstrations on either side.

Mr. LOEB. I have been fascinated, Senator, in reading the accounts of these hearings by the obvious attempt of Senate Members to allow demonstrations on their side. I happen to be a newspaperman. I am not sensitive to demonstrations, and I am willing to take on anybody in the room here in any kind of argument and enjoy it and do it in good form and good taste. But I always understood the Senate of the United States was a place of dignity and seriousness in which we did not allow the crowd to try to influence the testimony of anybody here or ridicule or embarrass them in any way.

I think it is belittling the dignity of the U.S. Senate and this Government to allow such demonstrations.

Thank you, Senator.

Senator THURMOND. Mr. Loeb, as the acting chairman of this committee, I apologize to you for what just occurred.

MR. LOEB. I do not mind, Senator.

Senator HART. I absolve the chairman from any responsibility.

Senator THURMOND. Just a minute. Let me get through. It has occurred at other hearings of this committee I am sorry to say. But I expect to see that these demonstrations do not occur, and I ask the policemen back there to watch anyone who attempts to demonstrate and to ask him to be removed from the room.

The Senate is supposed to be a place of dignity, and we expect every witness to be heard, to hear what he has to say, and then give each Senator the opportunity to examine him.

You may proceed, Senator Hart.

Senator COTTON. Mr. Chairman, I rarely interrupt a Senator, but before my distinguished colleague from Michigan concludes his questioning will he yield while I interpolate one short question?

Senator HART. Surely.

Senator COTTON. I have been glancing at your statement, Mr. Loeb, and I do not find in your statement where you have suggested that anyone's vote on the merits of S. 1782 should be affected one way or the other by whether Communists or Communist fronts or anybody else are for it or against it.

My understanding was that your reference to Communists was merely to whether or not in your opinion and your evidence they were instrumental in causing demonstrations that have a design to influence Congress.

MR. LOEB. Exactly.

Senator COTTON. Is that correct?

MR. LOEB. Exactly.

Senator COTTON. I thought I would like to bring that out before the Senator finished his interrogation.

MR. LOEB. That the demonstrations in themselves might have an effect on the passage of legislation.

Senator HART. I could say to Senator Cotton I think the way this developed was in exchange of questions and answers here. I got the impression we were being cautioned against making a decision based upon demand, and I was trying to clarify the significance of that.

Senator COTTON. I am sure the Senator was. My question was not in any way critical of the Senator's questions.

Senator SCOTT. Would the Senator from Michigan permit me to make a comment? I am due to speak to a foreign students' association at 11:45.

Senator HART. Surely.

Senator SCOTT. My comment is perhaps tangential, Mr. Loeb, and while I was not among those who were sympathetic to Senator McCarthy and said so, I am equally unsympathetic, and I think this is the time to say it, to those people who would now rewrite history and seek to create the impression that this Nation lived in a state of shivering, shuddering terror, fearful of the rather inept wild swingings of a single man.

I went to Great Britain at that time for the purpose of straightening out, as I hope I had some part in doing, the British people through their press and their BBC on the fact that the Nation was not run by one man.

I do not agree with the Senator from Michigan, with all due respect, as to the fact that at any time in this country people had to prove their loyalty because they held a belief. I did not believe it then; I do not believe it now.

I am an advocate of civil rights. I am not an advocate of tortuously rewriting history to create the impression that the people of this country at any time lived in genuine terror of the rantings or the rampaging of any one man whether it be in Louisiana or in the U.S. Senate or in New York or Michigan or anywhere else.

I appreciate the Senator giving me the chance—

Mr. LOEB. Senator, you just made a statement that should long ago have been made. That is a great statement. I hope it is noted very carefully by the press.

Senator SCOTT. I think my record as an advocate of civil rights warrants me in saying that I am just as much against the intolerance and the bigotry of the other side that would seek to create an impression which did not exist then. I am just as much against that as the rewriting of history about Herbert Hoover to portray him as an apple seller when he was one of the great Presidents of the United States.

Mr. LOEB. Yes.

Senator THURMOND. Does the Senator from Michigan have further questions?

Senator HARR. I think I should make a comment in light of that. I rather doubt whether what is exchanged here today will rewrite history. But I should add as a footnote that I have a very strong impression that during the period we were discussing there were people in this country who were a little afraid to press the unorthodox idea, and, if this was so, it was not a desirable situation.

My recollection of that period is that there were indeed instances where instead of discussing the wisdom of the Asian policy, members of the Cabinet were discussing loyalty.

But there are others here who should have an opportunity to question. Let me make, then, just this comment as to my reaction toward another and constructively discussed theme in your testimony, this business of prohibition and changing a man's inner heart and how can you legislate morals and all the rest.

I quite agree that it is not a function of public law to require that we do all things that are good and to inhibit all evil things. I agree that the moral law is not necessarily coextensive with public law. Perhaps it is more accurate to put it the other way around. And that this very loose concept of general welfare really determines when public law should reinforce moral law.

And having said that, it is just my feeling that in the bill before us, where we would make certain requirements with respect to somebody who is serving the public, it is the concern of the Government that that person not raise a color bar.

I think this is the reason that we have demonstrations. Not because we have Communists. I do not think that you could get agreement around this table on any of the things I have said, but I have felt that in light of the kind of exchange we have had I should indicate my feeling.

Thank you.

Mr. LOEB. I would like to say this, Senator: I am pleased to subscribe to your theory of allowing unorthodox ideas to be expressed at all times. I certainly would be putting in a plug for my paper by saying we print more letters from the readers than any other daily newspaper in the United States. We print anybody's viewpoint.

We have strong editorial viewpoints of our own, but in turn we allow our readers to have equally strong viewpoints.

The classic example was someone who disagreed violently with me and ended up by:

In conclusion, Mr. Loeb, I hope they catch you alive and skin you in that condition and nail your hide to a bridge across the Connecticut River where the rubberneck tourists will really have something to gawk at

We printed it just like that.

So I believe in all viewpoints.

In a number of political campaigns we have had strong support for one candidate, and we have kept a careful count of the letters afterward, and they have almost always come out, through no attempt on our own to guide them, within one or two of being equal.

So that I absolutely agree with you on the free exchange of ideas as a way of putting this country ahead.

Senator CORMACK. I will testify that you print some awful mean letters sometimes.

Senator THURMOND. Senator Morton?

Is the Senator from Michigan through?

Senator HART. Yes. I was impressed by the way the witness described the basis on which he employed people. What I object to is somebody who runs an establishment and judges a man's qualifications for his employment when he is 60 feet away. This is wrong.

Mr. LOEB. I agree with you. You and I are absolutely agreed on the moral values involved. It is just a question of means.

Senator HART. Or whether he can sleep there tonight or eat there.

Senator THURMOND. Senator Morton.

Senator MORTON. No; thank you, Mr. Chairman. No questions.

Senator THURMOND. Senator Prouty.

Senator PROUTY. Thank you, Mr. Chairman, I regret, Mr. Loeb, it was necessary for me to leave shortly after you began your statement. I did have two young ladies from Vermont who are attending Girls' Nation and they were quite interested to see their Senators. I took them over to the Senate floor, and they both expressed the hope that some day they might have a seat in the august Chamber.

They were young enough so I felt that I could encourage them.
[Laughter.]

I have not heard the discussion or the questioning, but I can assure anyone present that Mr. Loeb has never been a conformist in any sense of the word. He has expressed honest convictions very forcefully and ably. And I am sure he would not deny that privilege to anyone.

I will read your statement very carefully. I am sorry I had to leave.

Mr. LOEB. Thank you.

Senator THURMOND. Mr. Loeb, I just have one or two questions here.

It was brought out by several witnesses here before this committee that the changes that have come about in relationships have come about chiefly through voluntary means, good will, and a relation between the two races.

Do you feel that the passage of a Federal law requiring Federal compulsion would tend to promote good relations and to promote change, or do you feel it would set back any change?

Mr. LOEB. I am afraid it will set back change, Senator. I think we have been making too slow but nevertheless considerable advances in many ways. I know our paper would often editorialize about some colored doctor in South Carolina or some other Southern State being admitted to the white medical society as an indication of breaking barriers and there are a great many of those types of developments occurring. That seems to have sort of stopped as things have gotten more tense because of the various things that have happened the last few years.

Senator THURMOND. Do you feel, aside from the constitutional question, such as the fifth and fourth amendments which provide that no person shall be deprived of life, liberty, or property without due process of law, aside from that, from a practical standpoint that it is wise to force people in operating a private business to sell or serve to whom they do not wish to sell or serve?

Mr. LOEB. No, I do not. I know that the Attorney General testified I believe to the extent we now go in Federal regulation and State regulation on the subject of sanitary conditions, and so on, health regulations. These it seems to me are all regulations for the protection of the customer. But now you want to go a step further by also determining the nature of the customers.

I think this goes to the most fundamental of all rights of a man to conduct a business, because actually the type of customers you select often determines the whole nature of his business.

And you say to him, "Look, this is not the kind of business you ought to run. It ought to be another business."

His commercial freedom is very often destroyed.

Senator THURMOND. I believe it was the distinguished Senator from New Hampshire, Mr. Cotton, who brought out here in his statement there are certain resort places where people go to have quiet, and they may not wish to take parents with children because of noise. And if that particular type of business wishes to cater to that particular type of clientele, should they not have a right to do it?

Mr. LOEB. I think so, Senator. The point I make is that all of life is full of discriminations, and some of them very unfair, very unwise. I hardly think there is a person in this room who has not been discriminated against.

Senator Cotton I know was a poor boy from the wrong side of the tracks in New Hampshire. I have heard from other people the rough deal he had sometimes when people did not appreciate him, did not invite him around. He had a kind of a tough time. This was a cruel discrimination.

I bear a name that many Jewish people have. I happen to have been an Episcopalian who now saw the light and got to be a Baptist. I have been discriminated against because of that name frequently. I had a rough time in school. But this is part of life; that is all. It is unjust. It is unfair. And in the great world to come we hope this

sort of thing will not go on, but, unfortunately, it does go on. We cannot remedy it by law as I see it.

This is a matter of education not legislation.

Senator THURMOND. I think Senator Cotton also brought out in some of the resort places in New Hampshire that during certain periods people of one religion might come and during another period another might come, to enable a man to operate with less tension and more congeniality when they had people who had more in common. That is natural, is it not?

Mr. LOEB. Yes. I do not see any harm to it.

Senator THURMOND. And if a person chooses or wishes to choose whom he wants to serve, is it not the American way that he should have a right to do that? Is it not freedom that he should have a right to do that?

Mr. LOEB. I feel that way even if it is a mistaken choice.

Senator THURMOND. When a man chooses a wife, or, as you said, when a wife chooses a husband, as is probably more general, that is discrimination?

Mr. LOEB. I think so.

Senator THURMOND. And when one chooses to read your excellent papers instead of the New York Times or the Washington Post, that is discrimination?

Mr. LOEB. That is good discrimination.

Senator THURMOND. But they have a right to do that, do they not?

Mr. LOEB. Yes.

Senator THURMOND. If they choose to read the U.S. News instead of the Nation magazine, they have a right to make that discrimination, do they not?

Mr. LOEB. Yes, I think so.

Senator THURMOND. It is the American way. It is freedom, is it not?

Mr. LOEB. Yes, sir.

Senator THURMOND. And is it not more regimentation and regulation and control of business that this Federal law would bring about, and would it not set a precedent possibly for the further Federal interference and interjection into the rights of the individual citizen?

Mr. LOEB. Well, I am not a legal man, but once you pass that type of legislation there is no limit to what you could propose to control people.

Senator THURMOND. If you can tell a person to whom he must serve in a restaurant, cannot the Federal Government also specify the menu or the prices he must charge?

Mr. LOEB. I would think so, even though you might say it is ridiculous, but certainly if you can do one you can do the other.

Senator THURMOND. And so a law of this kind would lead us far down the road to a regimented, strong, powerful central government which our forefathers tried to get away from when they came to this country?

Mr. LOEB. That is right.

Senator THURMOND. Mr. Loeb, we appreciate your presence here. You were kind to come down and testify, and we appreciate you as a great American and the magnificent service that you render to your Nation.

Thank you for the fine contribution that you have made to this hearing.

Mr. LOEB. Thank you, Senator.

Senator THURMOND. Our next and last witness is Mr. Jack M. Lowery, attorney from Louisville, Ky.

Is Mr. Lowery in the hall? [No response.]

Is Mr. Lowery here from Louisville, Ky.? [No response.]

Mr. Lowery does not seem to be present. He has asked for permission to testify, and without objection we will permit him to submit his statement for the record.

In view of Mr. Lowery's absence, we shall now recess until 9:15 tomorrow morning, at which time the hearing will be continued.

(Whereupon, at 12 noon, the committee recessed, to reconvene at 9:15 a.m., Thursday, August 1, 1963.)

CIVIL RIGHTS—PUBLIC ACCOMMODATIONS

THURSDAY, AUGUST 1, 1963

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met, pursuant to recess, at 9:30 a.m., in room 5110, New Senate Office Building, the Honorable John O. Pastore presiding.

Senator THURMOND. The committee will come to order.

Senator COTTON. Mr. Chairman?

Senator THURMOND. The Senator from New Hampshire.

Senator COTTON. If you will forgive me before you call the witness, it has been the policy of the minority of the committee to try to have at least one of us if not more at these hearings all the time. This morning my subcommittee, the Appropriations on Labor or HEW, is reporting its markup to the full committee, and I just have to go to Appropriations. We are trying to get another Republican in here, but if I have to leave, I hope that the witness will understand and I just want the record to show the reason why I may have to leave in a very few minutes.

Senator THURMOND. We can certainly understand that, Senator Cotton, and we hope one of you can be here, but if you can't, well, it is perfectly understandable.

Senator COTTON. You can get along without any Republicans for a long time, can't you? [Laughter.]

Senator THURMOND. Sometimes they come in pretty good when they vote with the southern members. [Laughter.]

Our first witness this morning is Mr. Vonetes, from Petersburg, Va.

We are glad to have you, Mr. Vonetes. You may proceed.

STATEMENT OF JOHN G. VONETES, RESTAURATEUR, PETERSBURG, VA.

Mr. VONETES. Thank you, Mr. Chairman.

Mr. Chairman and gentlemen of the committee, my name is John G. Vonetes. I herewith submit the following succinct background data.

I am a native New Yorker presently residing in Virginia. Born in Binghamton, I attended public schools there. I studied hotel administration at Cornell University. During World War II, as a member of the Office of Strategic Services, I was concerned with establishing and improving OSS accommodations.

As a major in the Army of the United States, I was favored with assignment to the staff of the late Associate Justice of the U.S. Supreme Court, Robert H. Jackson, for the prosecution of Axis crimi-

nality. My position was that of advance liaison officer and accommodations officer for the Nuremberg trial. For this, I was awarded the Legion of Merit. For the past 10 years, I have carried on as a very small businessman on a sole proprietorship basis.

I operate two restaurants in the city of Petersburg, Va. Both are located on State Highway No. 36 very near the main entrance of Fort Lee, Va., the military installation.

Back in 1954, prior to building and opening the Lee House Diner, a modern, family-type facility, I conducted an exhaustive analytical survey similar to one that any prudent investor would insist upon for guidance. This study included both the limitations of starting capital and the uncertainty that sufficient patronage could be attracted to this convenient location between the communities of Petersburg and Hopewell. Not excluded in this appraisal was the consideration of whether to operate as an all-white restaurant, or as an integrated one, or as an all-colored eatery. At that time I was free to make my choice, but choice I had to make. After deciding that I would seek an all-white clientele, it remained only to plan the menu to its preference and settle upon a compatible kitchen and dining room layout.

I have still to encounter the first person to question the soundness and economic correctness of the choice within my discretion, which incidentally, I hold to be legal and consonant with the right of private property ownership. No person has ever offered to purchase this business and change the operation into an integrated one with the intention to appeal to a far greater number of nearby possible customers so as to cumulatively reap a greater profit for himself. However, since mid-June of this year, many persons have extended their sympathy to me for the threat to come to my business from possible enactment by the Congress of S. 1732.

To date I have enjoyed freedom from any form of governmental interference, coercion, and audacious suasion, be it city, State, or Federal.

Not in my statement, but yesterday we had two events which alter this statement. I didn't have time to reprint it, and I can enlarge on this when I finish.

I have been at liberty to compete along with the officers' club, the noncommissioned officers' club, and post exchange cafeteria for military business.

We have developed without advertisement a good following. We are especially proud that quartermaster people hold our operation in high esteem.

While our volume is not high by big city comparisons, we have learned to operate profitably and simultaneously hold down prices to the level that soldiers and the people of the nearby communities can afford and appreciate as being modest. From the beginning I have retained close customer contact and have been alert to maintain an atmosphere of quietude and pleasantry.

It has been my experience that northern soldiers training in southern training centers very quickly come to enjoy the freedom, the collective privacy, the customs and the social safety of protective southern eating establishments. Innumerable parents visiting their soldier sons at Fort Lee have been surprisingly pleased to find agreeable, well-run facilities so near the post, and have been frank to voice their appreciation.

It is inevitable that with the increased compulsion of military social life, and the integration of the United Service Organization, USO activity centers, places such as the Lee House will be appreciated even more greatly for the off-post escape and pleasurable freedom of association they may offer.

The smaller restaurant, the Playboy Buffet seats 100. It offers a collegiate-party type atmosphere. Its cuisine is exclusively Italian, featuring pizza. If bill S. 1732 becomes law, any inclination to continue operating the Playboy Buffet would be replete with potential for economic failure.

Petersburg has several colored and integrated restaurants, well in the excess of the demand of both local and traveling patrons. Being expansion minded, 3 years ago, together with a local businessman of color, I examined the possibilities of opening an up-to-date, complete diner-type modern restaurant in the section of the city closest to the majority of the colored residents. After complete consideration which included his management on a percentage of profits arrangement, he concluded that such a venture operating within the law would be a failure. He summed it up by simply saying that his people would not support it.

Unpleasantries in nearby Danville are not reassuring evidence of the preparation of all colored people for complete, amicable, and immediate association with my present clientele. I am not prepared to sacrifice my property and business by cowardly capitulating to one-sided selfish demands, or to the lawless belligerence of Negro organizers. Nor am I to be influenced by anything other than a genuine communitywide response that assures me of an extremely good chance of salvaging my present holdings.

This severe legislative proposal will in my case likely result in being imposed upon and told by a soldier of color from Fort Lee, "Let me in or I shall return in full battlefield dress with my bayonet fixed, and show you."

This ambiguous and evasive legislative proposal is predicated upon the questionable pretense of necessity and immediacy. With far-reaching implications—apparent enough to frighten me—it seeks to curtail my freedom and trammel my constitutional rights.

I respectfully suggest that appeasing professional revolutionaries with all-thought-out and hastily conceived legislative proposals, after their tactics, polished and taught in my city of Petersburg, Va., aborted into violence farther south should not have been the effect of the Administration.

I pray that the psychological infringement and the potential turbulence of the threatening massive Negro mobs shall in no way inhibit significantly the honorable work of the Congress of the United States.

In closing, please accept my thanks for allowing me, a private individual in immediate danger of sustaining direct injury from the proposed legislation, the privilege and honor of this appearance and presentation before your honorable committee.

As one not inexperienced in catering to the dining pleasure of distinguished Senators, I invite each and all of you to be my guests in the event you visit Petersburg or Fort Lee, Va.

Bewarement of Greeks bearing gifts, notwithstanding.

Senator COTTON. I have a question.

Senator PASTORE. Mr. Cotton.

Senator COTTON. Just one question:

Your two restaurants are, as you say, quite close to Fort Lee reservation. There are colored members of the Armed Forces stationed at Fort Lee?

Mr. VONETES. There are, Senator.

Senator COTTON. Now, are there any restaurants in the immediate vicinity where these soldiers can be served or do they have to go considerable distances into Petersburg to find a place that will receive them?

Mr. VONETES. My restaurant, which is the closest to Fort Lee, is about a mile from the main entrance of Fort Lee. Nearby there is a restaurant with a lesser investment that does, I have observed, cater to the military as they come, but the center of the city where the majority of the colored and integrated restaurants are would be then about a mile and a half further. So it is no great distance.

Senator COTTON. The other restaurant which is near and handy to the reservation takes both races?

Mr. VONETES. But the facility isn't comparable, I would say, in all fairness. It doesn't come up to our standards or our investments, but it is there.

Senator COTTON. So it is a fact—I just want the record to be very clear—that colored boys who are stationed at Fort Lee, if they are going to be adequately served, do have to go 2½ into the city whereas the white ones can be served at your restaurants within a mile?

Mr. VONETES. This is a fact, Senator, but this is not a walking distance, even to my place. They have to use transportation to come to my place which is the closest, so a mile and a half difference—transportation in cars—there is no hardship and no distance to negotiate.

Senator COTTON. Have you ever had to turn away a colored boy in uniform from your place?

Mr. VONETES. In uniform I have, but we have also made exceptions where we have served them.

We are serving this Saturday, from Washington, a group from the Waggoner Reserve Training Center here at my place, and they will have 14 colored in their party, and they have been booked and they will be served. Also in the past, we have served Ethiopian officers on the counter in company with an Italian colonel from the Italian Army and that was at the same time that your distinguished colleague, Senator Ellender, was having a hard time at Harvard from an Ethiopian who was rather hair raising him on conditions in our South, and we have made exceptions.

We do this where we think we can avoid pioneering a change in insulting the natives or the people who have been in Petersburg all their lives and consider themselves natives. And we do know their feelings on the matter and we just can't risk displeasing them to the point where it will injure our business.

Senator COTTON. Have there been times when soldiers from Fort Lee, some white and some colored, have come together and you have in your policy rejected the colored ones and permitted the white ones to come in?

Mr. VONETES. There have been, and I recall specifically that this rejection occurred sort of in a social hour time, in other words, past the meal hours, when they come out socially. Say if they are from New York and they don't know the feeling in the area or the custom, then they come in and we have had no trouble with them.

I mean they have been very understanding and been very tactfully handled without insulting them and offending them.

Senator COTTON. Thank you.

Senator PASTORE. Mr. Thurmond.

Senator THURMOND. Thank you, Mr. Chairman.

You pronounce your name Vonetes?

Mr. VONETES. Vonetes.

Senator THURMOND. Mr. Vonetes, where are you from? Are you a native of Virginia?

Mr. VONETES. No, I'm from Binghamton, N.Y., born there, raised there, and went to school there.

Senator THURMOND. How long have you been down in Virginia?

Mr. VONETES. I have been there about 11 years.

Senator THURMOND. Did I understand you studied hotel administration at Cornell University?

Mr. VONETES. I did, Senator.

Senator THURMOND. And you were in World War II and on the staff of the U.S. Supreme Court Justice, Robert H. Jackson?

Mr. VONETES. That is correct.

Senator THURMOND. Mr. Vonetes, I notice further down in your statement you mention that you considered whether to operate an integrated place or a segregated place. Is that right, you gave consideration to both?

Mr. VONETES. Yes.

Well, it was just necessary to make a professional approach to go in business. In other words, this is the benefit of having gone to an ivy league business administration school. They give you a good background and if you are going to use anything you learn there—I mean it is just commonsense. You are going to analyze the situation in the area and find out what chances you have of making a success of it.

Senator THURMOND. You have no prejudice against any race, as I understand it, but you just decided that it would be better for your business if you operated a white-only place. Tell us what your decision was based on.

Mr. VONETES. I think it was a combination of factors. It was the location would offer a better chance of succeeding as a white operation because the majority in the town that were able to patronize the type of restaurant and quality food I had in mind to serve were white, and the majority at Fort Lee, the military were white. And it just added up that I had a better chance of succeeding.

Now I also realize that there were restaurants integrated and the conditions I saw there and the type of clientele, the makeup of them and type of food they served, for example—I mean I think all of you know what a chicken sandwich is in the United States in any hotel, just two slices of bread with some chicken slices from the breast and a little lettuce and mayonnaise, and served to you cut in half and served with a little pickle.

In Petersburg and in the South in general that is not a chicken sandwich. A chicken sandwich to a few whites and all the colored in the South is some fried chicken, enlarged, boned, and handed to you between two slices of bread. They manage to negotiate, but this wouldn't go in my type of operation, which I consider a hotel type of cuisine.

These are the differences. I had to study all these things and they just didn't add up that I could make money in that location having an integrated place or a colored restaurant.

I have no prejudice against owning one in absentee management, in other words, as an investment somewhere. I could manage it and someone capable of running it—this I would have no qualms about and I wouldn't be hesitant to manage one, but not to be actively in it.

Senator THURMOND. I notice you specialize in pizza, I believe. That is a rather popular dish most everywhere.

Senator PASTORE. That is not quite pizza—not pitza. You have to get the two "z's" in there.

Mr. VONETES. I have to give it to the chairman on this one. It is pizza.

And, well, I can tell you this, that about 4 years ago we opened this restaurant and I have all colored cooks and we prepare the sauces at the Lee House and send it over to the other restaurant, which is about some 150 yards away. And we have developed rather a good business for this location and the Playboy is a better place and deserves to be, say, being in an area where there is no whisky to sell; we have just beer, wines, and champagne. And we have a much better facility than deserves a "B" in that area with the limits of the alcoholic beverage.

We have enjoyed a good volume of business selling pizzas and we make what is considered an Italian-type sauce, a genuine sauce. And these colored cooks of mine that I have shown how to make this sauce find it very difficult to control themselves in the presence of an exposed jar of garlic powder because the aroma is very offensive to them and they cover their nostrils and they squirm.

Also, the main pizza flavoring is oregano, which is a very acceptable flavoring to Mediterraneans and to the Mexicans and Puerto Ricans and everything. However, these—

Senator PASTORE. And Greeks as well.

Mr. VONETES. Italians and Greeks.

Senator PASTORE. Origano.

Mr. VONETES. Oregano, and origano is for the Greeks. We have a controversy, and you are right, Senator.

But the colored people find this very nauseous and I am sure that we would not be able to sell those people very many pizzas.

Now, of course, I feel I am pretty capable and I think I can probably improvise and, probably instead of pepperoni, get piggers and slice them and—I mean no disrespect—and probably go as far as to have a chitterling pizza. But I think chitterling pizzas in Virginia would not be very proper while you still have a big bill from Vepco, Virginia Electric Power Co. I have a monster light bill and payroll.

So if the white people withhold their patronage I am left just with colored. Maybe, after 3 or 4 years, I might develop a good sale

for chitterling pizza, but the pilot run, test run period, would not be so profitable. It would be pretty risky business.

Senator THURMOND. Mr. Vonetes, you own two restaurants in the city of Petersburg?

Mr. VONETES. Yes.

Senator THURMOND. Both of them are restaurants that cater to white clientele?

Mr. VONETES. You are right, sir.

Senator THURMOND. In your opinion, if you were forced by compulsion under Federal law of this kind that is now before this committee for consideration to integrate your facilities, would you give us your opinion of what the effect would be on your business?

Mr. VONETES. Well, this has to be an opinion that is based over 10 years, and it is based on a lot of study in the last 60 days.

I feel that what I have done, I have made some money and have just left it right in this place. I started with a pretty nice place. It would take \$200,000 to reduplicate what I have there. I did a lot of building myself. I did the architecture work and engineering and even dug out the foundations, because I didn't have that much money when I started. And I have done pretty well. I have a few other stores, an apartment, and et cetera, et cetera. But I didn't take out the cash and invest it anywhere else. I have invested it right in the business and in nearby property.

I bought property nearby to protect this business, so what I have done is I have everything right there, and so it behooves me to know what is going on in the community and the changes in the country in general that may affect my business.

So I have been very vehement in following this thing up to get myself a briefing and stay ahead of it as much as I can, and my conclusion is that inasmuch as I have not advertised for business over these 10 years, I have built up with key people, like for example, I have one doctor, Dr. Ende. He is quite a clever heart man in town. He has done quite a bit of work even on heart studies for golfers and bridge players, and et cetera. And he is quite busy and he has a tremendous following.

Well, by just making sure that Dr. Ende has special food when he comes to my place, and this is somewhat discriminating, but this is required because the city doesn't have the spread of restaurants that you have in Washington and New York, and I am able to cook very fancy food and able to have prices, as I say, the soldier can afford, but being able to serve this fancy food, we have attracted a good patronage from the town.

And this Dr. Ende, for example, comes there repeatedly with his family and large groups, but by having him, I have most of his patients. When the wife is in the hospital, I get the husband and vice versa. And we have gotten a lot of people, especially many elderly people. I have people coming in for lunch from Fort Lee that are his patients, and this can be multiplied throughout the community, with contractors, and dentists, and so forth.

And we have built up a substantial business year around and these people, up until this bill which was proposed in Congress, would not talk about the integration aspect too much, but if they did, they say they won't come up. They never pin "them" down and say they won't

come in, meaning themselves, but they would say, "they" leaving it indefinite; somebody in the community or other people would not come in.

But as of the time this bill was submitted to Congress in June, they changed all this. Many of them said, "Well, I will not come in. Will you be able to put on an addition with little nooks for us, for me and my friends?" And so I'm satisfied now that there will be somewhat of a difficult transition period if this bill were to be enacted.

Now, what I can do to change everything and survive—I mean I do know that 70 percent of my business is Fort Lee and 30 percent is from the town. While I do not expect to lose a large number of bodies from town, I feel that I will lose certain of the key spenders that keep my volume up.

This is quite a challenge because, if I am going to continue operating as I am, with a similar-type facility and operation I have, I have to have quite a bit of volume. My light bill is \$380 a month to Vepco. I have a \$150 gas bill. My water bill for 2 months this time was \$79 at the restaurant. These are just for the one restaurant. So right away, if I lose the ones that keep the volume up, I am going to go into a losing operation. It is going to shock my business, that is a certainty.

Now, what I can do to change everything and survive—I mean I think I can because I have been there 10 years and I am paid out at the Lee House, and I'm not too bad off on the other properties. I think I can survive. But this will not be the similar restaurant catering to the military or catering to the average man, you see. It will probably be some kind of a subterfuge, if I stay there, if I continue to operate it, you see.

So there is just no question in my mind that I will go into a loss operation if this bill were approved. Now whether I will get these people back, whether Petersburg's population will increase, whether I can—I don't know whether there will be new restaurants; whether I will ever survive is another question. There is no question in my mind that this is a tremendous challenge and I can't get a positive answer that I will survive as I am operating at the Lee House, if this law—but I can't say I am going to go bankrupt. I feel I am too resourceful, and possibly the fact that I have 10 years behind me and have left the money behind, and I won't have any rent to pay. I think I can probably cut down utilities; maybe close some of the time. But the temptation would be probably to continue trying it, and discounting some of the lessons of nearby places and see what you are going to do on an integrated basis.

It may be costly, while you are open and operating, trying an integrated basis; you are apt to lose in a hurry, \$10,000, \$20,000 in a year. You have the payroll, you have these static overhead expenses. So it might be prudent for me to close just for protection, because while I'm closed down all I have is the interest—there won't be any interest; just be taxes and insurances, you see. So that could be \$1,000 a year.

So closing in my case might be prudent if the transition period is long and precarious and there are no provisions or indemnification from anybody, not in the bill or anyone else. I have to carry the brunt and this is it.

Senator THURMOND. So you feel, Mr. Vonetes, that if this bill should pass, it would seriously affect your business?

Mr. VONETES. I am certain it would.

Senator THURMOND. In fact, it might reach the point where you would find it from a practical standpoint to be feasible and advisable to close entirely?

Mr. VONETES. Close it and rent it out possibly to some other business, the building is good size and well constructed. I might just have to get rid of the equipment. This is a loss to me of more than just future income as I have built up an equity and in normal conditions get \$100,000 for my key and place and equipment, just from the way we have kept the equipment. The general appearance is very impressive to someone coming in, even from the North, they find this restaurant very desirable, and we have a nice clientele.

So I mean right then, I am wiped out, automatically, good will and what I have to sell, automatically the equipment and key is wiped out. All I will be left with is the building and shell.

Senator THURMOND. Mr. Vonetes, you are a resourceful man, you are highly educated, very intelligent, and if this will affect your business in that way, do you feel it will affect the average businessman who doesn't have the resources and training that you have?

Mr. VONETES. Well, it is just hard to say.

I mean, if I have to confine myself to the Petersburg market, I haven't given that enough thought to give you an honest answer, but I feel that the transition period will be difficult for everybody and I think there will new restaurants opened up on a closed basis.

In other words, if the community sentiment doesn't change, and these people will hold their patronage, you see, this is what is liable to happen. Now they are trying the buddy system in these communities. What happens is this: The retail merchants come up and they say to you, they demand from the retail merchants—that has been the case in Petersburg, is implored upon by some garment merchants, say, the dry goods merchant.

This is the case in Petersburg, it has happened, and they get together, and then the chamber of commerce is asked, and they put up somebody, and they have a meeting. They come up with a nonofficial group and they come to the restaurant people. They have done this, and they ask us to go ahead and integrate the restaurants. Then we ask them to tell us who they represent, and they say "We are from the retail merchants, but we are not officially retail merchants. We are from the chamber of commerce, but we are not officially chamber of commerce."

The obvious pitch is to go ahead and integrate in a hurry and get this thing over with, to keep from having any difficulties in the city, which is very commendable, and keep these businesses going, the retail businesses, but the theaters and the restaurants were more apt to suffer the most, and they are being sacrificed. These people either through naiveness or just plain inconsideration and lack of it, plenty lack of it, they are willing to let you carry the load of this thing and let your business be the sacrificial lamb in the situation.

So I say many of these people who do not know and who are not able to analyze are apt to go along through this kind of suasion and those people are all going to get in trouble, because nobody can say in my town what transition is going to be, if there are going to be closed restaurants, increase of clubs—where are these people going to eat, if they carry out their threats, or whether they are bluffing.

We just can't give you a positive answer. We don't know whether they are bluffing, but we know there is going to be a transition period, and we know a lot of them aren't going to make it because they are going to listen to some of these people who are not able to make an analysis, and they may not be resourceful enough to cut down their overhead or work extra hard themselves for this transition period, you see.

If they don't cut overhead down quick, or don't go out and drum up new customers, they are certainly in trouble. I think every case will be an individual case.

Senator THURMOND. Mr. Vonetes, did you say you were a lawyer, too?

Mr. VONETES. No, just a hotel man. I am going to slow down my talk.

Senator LAUSCHIE. You talk like a lawyer.

Mr. VONETES. They give you a little law in Cornell, and I was at Nurnberg for a whole year. It rubbed off.

Senator THURMOND. Aside from the constitutional angles of this proposed legislation, I am wondering if you feel it would be better for these matters to be handled on a voluntary basis and those people who feel it would help their business to integrate, to allow them to integrate, and those who wish to segregate, to segregate, or is it better to pass a Federal law requiring Federal compulsion?

Mr. VONETES. I would say, speaking for the State of Virginia as a whole, and that includes every sector of it, because I know the State very well, I know the restaurant operation and hotel operation very well, I would say there in that case it would be definitely better to allow the thing to solve itself on a local basis because there is an indication that there is a general desire to make changes as the need occurs. I think there has been good will shown in the State of Virginia. There is no question in my mind about that.

Senator THURMOND. Mr. Vonetes, isn't it a matter of fact that if the Federal Government tries to bring about Federal compulsion through a Federal law, the people will rebel more and the present good relations will be lost rather than promoted, whereas if owners are left free to make their own decision, they will make the changes as they deem advisable and keep a good relationship between the races?

Mr. VONETES. Well, I for one don't feel that I can be rebellious. If the law is passed, I intend to comply. If I have to serve colored in that location I will serve them the best I can. However, the general consensus is that there is a protest in the South in general in my area, in Virginia, everywhere, about pressure, and they feel that things are changing automatically, and they just feel that there is almost no need for this heavy chastisement on the part of Government, naturally.

There is a lot of resentment in the South. But I feel won't rebel, personally, I will go with the law, whatever the Congress passes, I am going to have to go one way or the other. I may have to change my operation or close or sell or do something, but I just feel I can't rebel. But I do agree with you, there is a general protest in the South and in my area of the law and of the Federal coercion, as such.

Senator THURMOND. The point I am getting at, do you feel that a law of this kind would promote better relationships between the races or have the opposite effect?

Mr. VONETES. I think in Virginia, it will have an opposite effect. I am sure it will, because there people here are driven out of their places of preference and I can enlarge on this further for you.

Every city in the South, I mean where I have been, has got a colored quarter, and this colored quarter is "No Man's Land," no white man's land, almost no man's land after dark.

Now in my town, I never walk after dark in Halifax Street or Gill Street area. The chief of police will not go after dark and they don't walk policemen with or without dogs. They go two in a car. The colored people themselves—I have had the occasion many times to take colored cooks, female and male, home—they beg me not to leave them a block away from their homes.

One family lives on, I think, Harrison Street, and a street that cuts into it is called Kentucky Avenue, and if I as much as drop them three houses back behind their home, they say, "Please Mr. John, don't leave us off by Kentucky Avenue. Those people are wild in there."

This is not a disrespect, and I don't mean to be misanthropic, but this is a realistic condition as it exists in these areas the minute you allow these people to spill over in places like mine. I have 6 20,000 illumination lights in my parking lot, and I am frank to tell you one of the reasons they are there is so no colored people will be lurking around the cars at night; safe for the ladies and the military to come in, so they won't have any foul play on them. I feel the minute these people spill all over into the white sections, the white people are going to have to stay home in many towns. They are just not going to have any place to go out. It is going to restrain freedom of white people, no if, and, or but about this.

I think time might change this, but this law, if it goes through right now, is naturally going to create a hardship on the white community in the South, because these conditions exist and I have been all over the world; I have been in Cairo, I have been in Istanbul, and I have been in Berlin; I have been in Paris, and I have been in every section of those cities myself or with another soldier or with another gentleman, and I haven't ever feared, but I tell you, I fear to go into Jackson ward section of Richmond. I fear to go into Newport News; and I fear Petersburg at night, and I am a man 6 feet, 2; weight, 250; and I am not ashamed of it.

This goes for a lot of people that aren't that big or strong.

Senator THURMOND. Mr. Vonetes, I wish to thank you for your appearance here and the contribution that you make at this hearing.

Mr. VONETES. Thank you, Senator Thurmond.

Senator PASTORE. Mr. Vonetes, to me you represent one of the most interesting witnesses that has come before this committee. As I measure you, as you sit there, I would say that philosophically you are not a man who bears a prejudice against the colored race. As a matter of fact, the reason why I take the liberty to say this is because, as I look at you, I see more or less the image of myself.

Mr. VONETES. Which is?

Senator PASTORE. You are of Greek extraction and you have done well in the restaurant business. I am of Italian extraction; I have done pretty well in the political business.

But you must admit that there are some people, regrettably so, and we thank God there are only a few, that have an idea that if you are

of Greek extraction, about all you are is a short order cook. You have met that in your life?

Mr. VONETES. Absolutely.

Senator PASTORE. And some of that has affected me in times past, and I don't think you are the kind of man who would come here this morning and say, "I don't think I ought to allow a colored man to come into my place because I don't like the color of his skin." It isn't a personal thing with you; I think you are talking about the economics of your business. Am I correct in that?

Mr. VONETES. You are correct, Senator.

Senator PASTORE. Now, I would assume that from what you have already said, you run a pretty high-class place.

Mr. VONETES. Considering where it is, I would say it is very, very good.

Senator PASTORE. Not to get into your affairs at all, but if I walked in to your place and I ordered a New York cut of sirloin steak——

Mr. VONETES. You would get it.

Senator PASTORE (continuing). Weighing about a pound, about how much would it cost me?

Mr. VONETES. That is a trick. I am embarrassed how cheap it is. It would cost you around \$3 with appetizer and dessert. The same steak would cost you \$6 and \$7 elsewhere. That is why I say we give them a break.

Senator PASTORE. I would assume you are pretty familiar with the situation here in the city of Washington?

Mr. VONETES. I know Blackie's. And I could give you a good fillet mignon when I ran a restaurant here. I ran "Old New Orleans."

Senator PASTORE. You know Harvey's?

Mr. VONETES. I know Harvey's.

Senator PASTORE. You know Duke's?

Mr. VONETES. No.

Senator PASTORE. Paul Young's?

Mr. VONETES. I know Paul Young's.

Senator PASTORE. They are pretty much high-class businesses.

Mr. VONETES. Yes, sir.

Senator PASTORE. Have you ever walked in there and seen a colored person? You have seen them in there, haven't you?

Mr. VONETES. I will talk with you, with your permission I will let you finish your statement——

Senator PASTORE. I am trying to develop a point. I am not trying to web you in in any way or wing you——

Mr. VONETES. No.

Senator PASTORE. Then you can more or less explain. I am trying to get to a point here.

Mr. VONETES. I will cooperate with you.

Senator PASTORE. To a man that I think will understand and a man like me should understand. We have an immigration law——

Mr. VONETES. I will cooperate with you and say I have seen colored. But I would like to tell you something about the situation when you get through, sir.

Senator PASTORE. We have an immigration law in this country that says if you have Anglo-Saxon blood, 65,000 people can come in a year. If you have Irish blood, 35,000 can come in. If you have Italian blood, 5,700 can come in, and if you have Greek blood maybe about 250 can come in.

Now, you don't like that, do you? You don't think that you are an inferior as an American to any man that is sitting at this dias?

Mr. VONETES. If that was based on inferiority, but based on other reasons, for justification, population of the countries they are coming from, et cetera, and if the country is trying to be fair, it is different. If it is based on inferiority, I will agree with you.

Senator PASTORE. They base it on the reason that amalgamation and assimilation of certain races should be according to the tradition of the people who are here, and that certain races dissimilate into the American culture a lot easier than other races do. That is the argument that is made.

We get into this point of whether or not one person is better than another person or he is apt to be a better American because he comes from a certain country abroad. And you have a tremendous background. You have served in the Armed Forces, you have had high posts, you are a product of Cornell University, which is a State institution, and you have done well in your particular line of business. And I am going to get to a point here very soon.

Now put yourself in my position. Put yourself in the position of Ralph Bunche. Put yourself in the position of Jackie Robinson. Put yourself in the position of a colored doctor, who is a heart specialist, like the man that you talked about. And this decent person who can afford to pay \$3.50 for your sirloin steak, not talking about riff-raff, white or colored or yellow, but let's talk about the American story that we are trying to depict here this morning, and what it means to an individual, his self-respect, his dignity, his pride to be an American.

Now this man comes in and he is a doctor, and his income is \$20,000 a year. He drives a Cadillac car. He dresses well; he shaves every morning; he puts a clean shirt on every morning. He even goes so far as to use men's cologne. And he comes to your place and you are forced to say to him, as an American who is the story of America, "I am sorry, sir, you can't come in here because you are black."

How would you like it? I am asking you, Mr. Vonetes, how would you like it?

Mr. VONETES. All right, Senator, I am going to tell you.

As a young fellow, as a Greek boy growing up before I learned to play football and box, I took many a sound lashing from some Irish boys. I grew up, and when I was able to equip myself, they didn't bother me.

When I went to Greece in 1948 as a civilian, I went to Athens, and I had to register in the Greek Army because my father was born there. And the U. S. Government State Department recognizes conscription rights over me even though I was in the army in Greece.

And when I was at the hotel at Grand Bretagne, I met a lawyer when I introduced myself as Vonetes, and he said, "What kind of a name is that? Never heard of it." So he offered me a choice of proving that name was in the phone book or buying the drinks. I bought the drinks, because my name was not in the phone book. It was an unheard of Greek name, and at that particular moment he made me feel that I was not much of a Greek, which was all right.

Then I had to think back, that they called me a Greek all through

school in sports and got whipped, but that didn't get me down. I am too big for it. You see, I stood with it.

Senator PASTORE. But did you go to a restaurant and they said they can't give it to you because you are a Greek?

Mr. VONETES. I will go along with you, but wait a while. The point is this, that now there are a few colored people who have distinguished themselves, who have acquitted themselves and who deserve the finer fruits of American life. In most parts of the country, and in the South, it is recognized that they should be given to them, but who is to make the sacrifice and how quick? You are asking me to sacrifice my business.

Senator PASTORE. I am not asking you to do that, because I understand your plight. I understand your plight, because I have already said you are not a fellow who would ordinarily carry this because you don't like these people, because you believe in integration. I know you don't believe in integration as such. You are worrying about your business.

Mr. VONETES. I grant you that.

Senator PASTORE. And in the beginning there are going to be rough spots.

Mr. VONETES. Now I feel in the North they are making changes. Now, right here in Washington they are making accommodations for that, but you see, this is a peculiar situation. You mentioned Blackie's right here, and they are right by the colored section of the city. Now, Blackie's is about 22d and Q, I think, and there is a tremendous population of colored people, and there are many doctors and there are many of these people in advanced categories, as you say, and I was there 2 weeks ago on Thursday night for dinner and there was no colored people in there, and this restaurant seats a thousand.

So I asked him—and this fellow trades on his name, pictures of distinguished colleagues all over the place, he has our President's signature autographed "To Blackie and Lou" in a case. He is trading, he has a tremendous goodwill built up, but now he is not getting any colored business. Now he is not because they are not grown up, because he calls his place "Blackie's." I tell you his name was Odysseus, from Homer's Odyssey, and that is a heck of a moniker, so they changed it to Ulysses which is almost a true translation of the Odyssey.

So as this fellow was growing up, a dark complexioned Greek fellow, they called him Blackie. He is legitimately called Blackie. Everybody in town calls him Blackie, and he trades on this name, has a good restaurant and good food, but no colored people there.

Why? Because they considered it an insult?

You don't have any provision in your bill.

Senator PASTORE. Do you know why a lot of them can't afford to pay those prices?

Mr. VONETES. Somebody should be able to afford it in this city. They get enough money.

Senator PASTORE. Are you telling me no colored man is allowed in Blackie's?

Mr. VONETES. They get a few.

Senator PASTORE. I have been in Harvey's, and there have been times when I have seen them and times when I haven't.

Mr. VONETES. I agree with you.

Senator PASTORE. And the people that come in there, the colored people that come in there that can afford to pay those prices, are just as good as I am.

Mr. VONETES. I am not arguing with you about the one or two exceptions; I am talking about the urgency of this law, where is the justification. They are getting \$5. In Petersburg, if I raise my prices to appeal to select colored people, I will starve. It is wonderful if we can do this.

Senator PASTORE. Do you think we must go on forever? That little Greek boy, 6 feet 2, that weighs 250 pounds, has to keep throwing his weight around in order to be recognized as a plain American. Do you think every Negro ought to start doing that, or do you think we ought to reach a point of sense in this country when we say we only have one class of citizen, and all are first-class citizens, and no man should be prejudiced against them.

Now I realize there may be a rough spot in your business, in your business world, for a short time, but the fact of the matter is that if every restaurant in Virginia by law can't turn a decent man away because of his color or his race or his religion, if you can't do that, if everybody has to do what you have to do, and be made to do it by law, this thing will take care of itself.

In the beginning it is going to be rough. It is going to be rough. But I know that somewhere along the line there is something precious, there is the dignity of man, the nobility of man, that is involved in this. And what does it mean to us if we say, "We hold these truths to be self-evident, that all men have been created equal"; what does that mean if a man can say, "Well, I am going to lose a few bucks if I let Ralph Bunche come into my place"?

Yet we expect Ralph Bunche to go to the United Nations and keep us free. We expect him to go to the United Nations and make sure that this world is kept together. He is good enough for that. But he is not good enough to go into a restaurant where he can afford to pay the money and sit down with decent people and have a decent meal.

Do you think that is American? Do you think that is American?

Mr. VONETES. You make a very fine statement, and the wrongs you condemn would be nice to eliminate; but to eliminate these wrongs which are a wrong to very, very few people, and foist on the great majority of the business community in the South, and others who are there, the great majority, a hardship, is not doing the right thing.

In other words, if you can correct this and bring this utopian situation about in some manner which is not coercive, it would be wonderful. But I think the method, the bill, the haste, everything about this thing, is wrong. I think there are other ways.

Senator PASTORE. I get your point, Mr. Vonetes. But I am talking about something that is very sensitive.

Mr. VONETES. I agree with your point.

Senator PASTORE. Because you and I have lived under that roughness.

Mr. VONETES. How do you correct it? I don't think your methods are right, legislating this way. I am not sure that you don't have tremendous merit to your philosophy, I am in agreement with your philosophy; but I am not in agreement with the solution.

Senator COTTON. Mr. Chairman, I have to go down to Appropriations. Would you give me about half a minute?

Senator PASTORE. Certainly. I am all through.

Senator COTTON. Mr. VONETES, I am sorry to say this, and I have great respect for your situation, but I am saying this because I happen to be a member of this committee who has made no secret all through these hearings of the fact that I have very grave doubts, very grave doubts. It is hard for me to see the safety of the approach to this moral issue through this kind of a law under our Constitution. I am compelled to say this in all sympathy.

But your evidence this morning, what you told me, would do more to make me want to vote for this bill than all the evidence of the Attorney General and Dean Rusk and Dean Griswold and Roy Wilkins and all the rest. The thing that saddened me was the fact that we draft American boys and we put them into uniform. We don't ask their permission. We send them down and station them at Fort Lee, and they don't select where they are stationed.

And they come out of Fort Lee, and the nearest facility, good facility, they come to, 1 mile from the gate, is your restaurant. And they come out, colored boys with their white comrades, and under your policy, and under the economic pressure that you are under—and I am not blaming you personally—you turn away the colored ones in uniform and let their white comrades in.

Now I am afraid that this method of approach by this bill is a scatter shot method that will do great injury and take rights from people all over this country to enforce one great moral issue. And for that reason I am one of the few on this committee that would ordinarily receive your evidence with sympathy. But you make me want to vote for this bill. You make me want to vote for it more than any witness that has come in.

I think it is not your fault, but it is just a disgrace to have boys in uniform walk off a reservation and come to a restaurant and have five white ones and three colored ones, and have someone say to them, no matter how courteously, "The white ones come in, the colored ones stay out."

There is something we have to do about this, and I think it is only fair to tell you that you have made me want to vote for this bill more than any witness that has appeared here, because of that one fact.

Now you can say to me, "No worse for you to do it than for my resort hotel to do it up in the White Mountains," but at least it pinpoints something to me that distresses me terribly and makes my decision so much more difficult that I just felt I had to say it to you.

Mr. VONETES. Senator, my intent has been to give you an honest, well-rounded picture of the situation. And I thought that I emphasized the fact that as they leave this camp, these white soldiers, if they didn't have any place to go to, they would have to be put into a jungle. There wouldn't be any decent restaurants, Senator, in the South; so your option would be then to go ahead and vote for the bill, which would kill good restaurants and leave no place for the white people.

What I am pointing out is that the soldiers then would be put in joints where disease runs rampant, venereal disease, where bootlegging and law violations go on, knifings and switchblading go on. Is that the kind of atmosphere you want?

Do you know, Senator, just now, if a white boy from New Hampshire would die at Fort Lee, what would happen to him? On account of the pressure from the Pentagon the elaborate and established undertakers can no longer sublet colored peoples' bodies. The white undertakers—and I am not here to make any pitch for them—they are clever, those southern undertakers are clever, and they can stand up and do their own lobbying. But I am using this to emphasize a point: these white undertakers are forbidden to bid on the work, any bodies, any soldiers that die at Fort Lee or that area. So there is an undertaking parlor of Gill Street, which is the most dangerous section after dark—as dangerous as any in the United States—and this fellow Jackson, who died, and I knew him, a funeral director, was a very nice colored man. He used to give me a lot of help. He was a real expert in the business. He could make tears come at the snap of a finger in his face.

But this man's widow has taken and remodeled that facility. It looks pretty good. But it is a small facility.

So if a white mother from New Hampshire, your State—and I am trying to bring this to you—would come to find her dead soldier son at Petersburg or Fort Lee, she would have to go to this colored undertaker.

This colored undertaker would do a very good job, very professional: I'm not discrediting him, and there is no disrespect intended. But that body would be viewed in a funeral parlor that would give this woman a sadistic beating, a shake; because it is bad enough to go into any funeral home to see a dead soldier, but to go into a Negro funeral parlor and then go out and have the risk of being attacked by hoodlums out there, that is a pretty bad business.

Nobody stood up at Fort Lee and told the top echelon at the Pentagon they are not going to give good representation, but do what is expedient. They had pressure from up above.

So that is what happens. That isn't so nice.

Senator CORTON. What are you trying to tell me?

Mr. VONETES. I am trying to correct a wrong—

Senator CORTON. Are you trying to tell me the command at Fort Lee are insisting on sending all the dead soldiers to colored funeral parlors?

Mr. VONETES. I am telling you that is the latest rule of the Pentagon. That is official.

Senator CORTON. Oh, no.

Mr. VONETES. Let's bet on it. I will bet you. That just came there. The white people, the white undertakers, cannot bid on the funeral work at Fort Lee unless they take it on a desegregated basis. They can't sublet colored bodies. I am telling you this. That is the truth.

And that same commander at Fort Lee sent his man yesterday to ask me about integration. He is the man that is going to run my business. And I am going to tell you one more thing that happened yesterday.

He sent his G-1, Mr. Culbertson. He asked me two questions. He wanted information, and he mentioned off limits. He came at 12 o'clock. At 1 o'clock the NAACP's man, David Gunter, came in. That is the first time I have had contact with either of them. And

he wanted to ask the same question. What do we do about serving colored military? The same question.

And this fellow David Gunter was on the resolutions committee at the NAACP convention—he told me some questions—that got the committee going that caused this latest off limits business to come from the Pentagon. He was at Atlanta on the resolutions committee and he was at my place yesterday.

I asked Culbertson, the colonel, I said, "This is a very peculiar coincidence. Is this a happy coincidence that you are here at 12 o'clock and Mr. Gunter had already called me he is coming a few hours before, that he is going to be here at 1?" The post G-1, Culbertson, denied they were together, but the colored man admitted that he knew Culbertson, admitted they are working together, and admitted they desegregated the NCO club and closed it.

So I am telling you that we have to find some other solutions.

Senator COTTON. I haven't had time to study what the Pentagon has done. And I can appreciate all the many delicate situations that occur. And that is one reason for my position about my feeling about this bill that occur when you try to integrate by Federal law. I can appreciate it.

Mr. VONETES. I agree with you.

Senator COTTON. But I still say, and I say this with all kindness, that I could never accept your invitation to be your guest, nor eat in your restaurant, as long as you continue the practice of saying to a colored boy in a uniform who comes right off the reservation, that he can't be served. That to me is terribly repugnant, I can't see why you couldn't at least make an exception in this case. There is probably no difference between a colored man in uniform and out. If they should be served they should be served everywhere; and I wish people would.

I don't like to compel people by Federal law, but there is something very sad to me about that sector.

Mr. VONETES. I told you I agree with you. And I say there is a change coming in the mood of the people of the South, and I feel that this could come about without this compulsive legislation. That is all.

I agree with you, but I don't see, if the change is coming—and it is obvious—why we have to force these impositions.

Senator COTTON. I wasn't trying to lecture you, but I did want to make it clear.

Mr. VONETES. I got you. Thank you, Senator.

Senator THURMOND. The Senator from Oklahoma.

Senator MONRONEY. I soon have to go to Appropriations.

I recognize the fear—we have had it from a great number of witnesses—in segregated areas of the economic distress. In my home State of Oklahoma we were segregated since statehood, but in recent years we have done a very good job of voluntary desegregation.

Two or three months ago all of the restaurants in our capital city desegregated.

Do you have any figures to verify, or trade publications that would indicate, the degree of economic suffering that restaurants would have in those areas that have been segregated that would be caused by an open door policy to all races?

Mr. VONETES. I have no figures; but I know the experience in Richmond, and I know the experience of Lynchburg.

Senator MONRONEY. Could you explain those briefly.

Mr. VONETES. I can say this: The Hot Shoppes in Richmond, which is able to sustain any amount of losses in that particular outlet, has visibly suffered withholdment of white patronage at their Grace Street location, near the Miller & Rhoades department stores.

In the Town & Country in Lynchburg, the owner is openly complaining that it was a mistake to go ahead and allow this testing, to yield to it. And there are several others.

Now the Restaurant Association has not come up with any figures, and those people are professionals, and they have come up with the figures, or the pitch, that it is expedient. And one of them, in the State of Virginia, Mr. Walter Wick, had political ambitions, and he is the one that went around and forced token integration in Lynchburg, and so forth. He is one of the ones that was misleading restaurateurs, given coercive treatment by innuendoes, and he told them it was just painless, go ahead and let it go over. This was a false and unequitable position for the Restaurant Association secretary to take. And they haven't come up with any figures. But they haven't been fair, honest, and open in dealing with these people, because they have been under pressure from trade associations and the like.

So they haven't come up with a fair treatment.

Senator MONRONEY. So there has to be at this point, from your studied judgment as a restaurant owner, disastrous effects that would occur. Would this occur more or less to your type of places that are considered luxury in the community, or generally in your business?

Mr. VONETES. I think it will be a transitional period. No one can predict—I don't think you were here, Senator, when I pointed this out earlier; you may not have been here: that there will probably be closed restaurants and increased clubs if there is a bona fide protest in the community. This remains to be seen.

They threaten to withhold their patronage, but whether they do this it has to remain to be seen. The pitch is to try to get all the restaurants on a buddy system to desegregate. If they do, then the thinking is that they won't have anywhere to go. But you have no assurance, because they can stay home, and somebody else open up a closed restaurant or hotel, go on a closed club basis, and so forth. And you have no guarantees.

So it becomes risky.

Now, how permanent this injury can be, and what changes are going to be brought, it is hard to say. But for us who have a fixed, nonmovable investment, you see, we have to watch this very closely.

Senator MONRONEY. Doesn't this make it more difficult for the voluntary system to work, and more necessary for some legislation, preferably State, to take over that?

Mr. VONETES. There is indication there is movement on this thing, with or without the law. So this thing is going to come to a head one way or another. So if you have closed restaurants and still have open ones, I don't see where legislation is needed.

In other words, I know there will be enough restaurants open, but whether one person wants to go ahead and operate, whether he considers it an imposition to operate on an integrated bases, this should be his free right to decide.

There will be plenty of people available to run integrated restaurants, I am not saying there won't be enough facilities; but I feel that there will be competition for some of the better restaurants from the closed restaurants and hotels that go on a club basis. So it is going to cause some kind of panic; no question about it.

But I think there will always be someone available to open up restaurants if there is a demand on an integrated basis, and many people are willing right now to patronize integrated restaurants. I can't speak for everybody.

Senator MONRONEY. Do you think if everybody in town save one restaurant in the South opened up and were desegregated that the one that remained closed during this period to all races, and limited to white, the one who did not desegregate would profit from the feeling that you say exists there? That the people are either going to stay home or continue to enjoy what they like about the segregated facilities?

Mr. VONETES. I agree. There is a chance he might benefit from the willingness of the others to be progressive, if that is what you want to call it. But I can't say how long he is going to enjoy this, because the feeling either may blow over, or there might be other restaurants open up on a similar basis. I can't say how long this would last.

I think there is some chance that he might enjoy a short-run boom. But that is about all.

Senator MONRONEY. But if all had to do it at the same time, there would not be as much likelihood?

Mr. VONETES. I mean you can't close the door to closed restaurants or club and so forth opening up. You can't eliminate, if there is a demand for people, all white, to eat by themselves, and if there is sufficient demand, I am sure somebody will come up with it.

This is the problem with colored restaurants, no demand, obviously.

That is what is happening now. So if the demand is there and somebody willing to put up \$100,000 for a restaurant in these small towns, I think that he is going to enjoy the business on a closed basis. In other words, the size of the city, Senator, makes a different situation in every case, the size of the city is the big factor in the situation.

Senator MONRONEY. And location of the restaurants.

Mr. VONETES. Agreed.

Senator MONRONEY. I am sorry, Mr. Chairman, I have to go to Appropriations Committee.

Senator THURMOND. The Senator from Kentucky.

Senator MORTON. I am sorry that I wasn't here. I had to be at another meeting and I have no questions, Mr. Chairman.

Senator THURMOND. Senator from Texas.

Senator YARBOROUGH. Mr. Chairman, I was not here during the statement by Mr. Vonetes, but I have read the statement.

Mr. Vonetes, I notice you have been awarded the Legion of Merit. In this city of so many generals and so much brass, there are so many Legions of Merit that I think we in Washington overlook the fact that if you come from, you might say, out in the sticks and go up in the Army as a major and win the Legion of Merit you have really done something.

In view of your military record in World War II and the years after that in Europe, with a position of major, I congratulate you on

your distinguished military record and winning the Legion of Merit in that position and in that rank.

Mr. VONETES. Thank you, sir.

Senator YARBOROUGH. Having some military experience myself, I know that is quite an accomplishment.

I have no questions.

Mr. VONETES. Thank you very much, Senator.

Senator THURMOND. The Senator from Michigan.

Senator HART. The underlying theme of your protest, I sense, is not racially motivated. The problem is your pocketbook. Is this a fair statement?

Mr. VONETES. My pocketbook in that location. I think and I have searched my soul on this to find out how I stand on it morally, and I just feel that with my background, Senator, during my youth in New York, the only colored people I saw were the ones that were playing baseball, had big muscles, and one team in Binghamton and the ones that came through on freight cars, white and colored hoboes.

My father showed much compassion and used to give them bread and beans and so forth. We have no hate in our heritage for anybody, and I furnished several of my cooks' homes with furniture down there that came to me, furniture that I could have sold and gotten something. I could have given it to churches and take it as writeoff, but I saw fit to give it to these people.

I feel in analyzing my overall background, that I have no misanthropic attitudes toward the colored race, but I think they do pose some kind of a shadow, say, over my business in the next 3 or 4 years and over my investments. There is no question about it.

Senator HART. I couldn't understand, when you were exchanging with Senator Monroney, whether you were arguing that we shouldn't enact this law because the situation would change in the course of events. Is this your feeling?

Mr. VONETES. Senator, I think to a high degree, it is my point. But of course I can only speak for Virginia. I can't speak, say, for Mississippi, you see, and I can speak with experience in New York and speak from my experience in Washington; I have had experience in running Old New Orleans here, we had quite a business when I was here, and I feel that there is a change coming. There has been tremendous strides in the last 10 years on this matter, and I am not so sure that I can understand the immediacy of the thing and where they have had this privilege, they are not using it.

You see, I just don't feel that there is a real justification for integrating restaurants in a smash, in a hurry, inflicting all this damage.

Senator HART. You would be more comfortable in your own conscience if you could judge an American as an individual without reference to his color or religion, wouldn't you?

Mr. VONETES. I will go a little further with you. I am glad to be able to recognize a Greek for a Greek, and an Italian for an Italian and an Irishman for an Irishman. I know the good points of an Irishman and I know his shortcomings and I feel the same way about an Italian, I have had experience with them. And I find this is a tremendous advantage to me, when I approach them, I have a foreknowledge of how they will react and what they will expect.

I am glad to consider a Negro for a Negro, not for any reasons that are inferior, but to give me a background on how to deal with this man. I feel I just have to recognize him. If it were religion, ethnic, the distinction is there, and there for me to recognize and, as an intelligent man, to put this to work to my advantage.

I mean, they have certain traits in common, especially if they come from certain sections of an area. Now the ones I played sports with in New York, they act in a certain way. The ones that work for me act one way, and the Negro professional acts another way, but still this is an advantage to recognize this in their race. I don't think there is anything unpleasant about it, I think it is an aid in dealing with people. I think it is wonderful.

Senator HART. Let me ask it again, I am not sure that was responsive. In your own conscience, you would feel more comfortable if you could operate your business in a way that would judge each individual as an individual, be he good or bad?

Mr. VONETES. Well, I agree with you, that it is quite a hardship, I mean there is a lot of suspense and I shake inside when I see one coming in the door, so I agree with you—

Senator HART. You are shaking, you tell us, because of the cash register's tune.

Mr. VONETES. No; I am shaking because of confrontation. I detest it when I go to someone at the door drunk and I shake. And if it is someone undesirable, I shake. When I meet a colored person, not in my business, when they come into my door, I shake. Whether that is a movement of conscience or something else, the excitement or anything, I am not in a position to say on this business of conscience. I say, I am sorry that we have to differentiate. I say this, it would be wonderful if we could have the Bunches and all these fine people in a nice way, this would be tremendous.

Senator HART. You are in effect saying you would like to be in a position to judge the individual as good or bad?

Mr. VONETES. I agree with you on that.

Senator HART. Fine.

Now, you have described the problem of the Hot Shoppe at Richmond under pressure now to reverse its open policy.

Mr. VONETES. No.

Senator HART. I misunderstood.

Mr. VONETES. I didn't say that. They have already opened, I understand, in Richmond and they have had a withholding of patronage on the part of the white people. They have already integrated there and they have suffered some losses.

Now, whether they want to admit this—

Senator HART. This is just the point of my question. If the law required open service uniformly, then wouldn't this economic problem be resolved?

Mr. VONETES. Would it be resolved? If it brings all kinds of other problems to your door in addition, I am not sure it is worth it. That is the question. You have to balance, you have to have a scale of judgment here. This is all right, if it didn't bring all these other undesirable aspects; this is wonderful, utopia.

But when you have all these other damaging things, which are certain to come, as I pointed out, I don't know if you were here—

Senator HART. I was here and it reminded me of the description of the horrors that will occur every time you make a change. The stands will be empty if we have that mixed baseball team, and the stands weren't affected a bit. The theaters will be empty if we have live theater with a mixed cast or a theater open to free seating, and all of these, and if we have FEPC, business will evaporate. I am sure, though they were enacted before I was born, the same cries of disaster were attached to the efforts to enact open accommodation statutes, and it just hasn't happened. I hate to see the discussion narrowed to dollars and cents, but to the extent that this is a factor, certainly I can sympathize with a person with a capital investment. I think it wouldn't happen either. You can jump up and say to me that you have invested capital in a restaurant in Virginia, that is true.

But I think all over America, it will be healthier if a family not in uniform, just a family of decent people, driving down a route you are on, could stop when it was time to eat and not suffer the indignity which I suppose I would find even difficult to imagine, of going up to your door and being refused just because, 50 feet away, you made your mind up you were going to refuse them.

You made your mind up at a distance where it is impossible to judge whether they are good or bad people. This is what is offensive to me. And I am just stating my point of view.

Mr. VONETES. I agree with you, as I say, from the utopian aspects of it, it would be very desirable in the country as a whole, but when I say a section of the country or many, many sections of the country are saddled with this law and we turn around and inflict hardships in the white communities and on the operators and we restrain their freedom, their choice, and force indignities on them to put up with the undesirable element, you see, that presently is being curbed and they admit.

Senator HART. That family coming up to you is too far away.

Mr. VONETES. I am not talking about this family, I am talking about what is in that area. I am talking about what is in my city. I know them, I know their criminal record. How is that judge going to come in my place when that fellow across from him is a murderer and they know it—and these lawyers, too.

You have to go down to police court in the city of Petersburg to see what kind of business they do and who are there. The whole city, they live differently. This is no castigation of the colored people in the South or anywhere else.

Senator HART. Let me ask, 50 feet away, how do you know what kind of people they are?

Mr. VONETES. The rest of my guests know this, the majority of people know.

Senator HART. How do they know that, when this family pulls up and parks 50 feet away?

Mr. VONETES. You are assuming they are not known, but they know the colored people in Petersburg, everybody knows everybody in a small town of 50,000. It may not have been your experience to live in a town, I know maybe 2,000 or 3,000 colored people and I read the names and I see them. They put their pictures in the paper when they do wrong, not like here, where they don't put the fact that he is of another race.

So the conduct of the masses is not quite up to par yet. This is changing and as it changes, and it is changing quickly, they are improving, their educational lot, conduct, and churches, all show a sign of improvement. But still, when I have two colored priests and they have a church on Gill Street, right near the funeral home and they say, "Don't go out after dark"—they are personal friends; I associate with them and do charitable work for Negroes. I have done charitable work. I gave them charitable contributions for their Negro setup, the Catholic church, and they tell me it is not safe to go out after dark. I can't very well accept—if we put this into, and we destroy the whole city's atmosphere and make the whole city unsafe—that we are accomplishing anything with this law. This is what I am pointing out. These changes are coming. I am objecting to the speed.

Maybe 10 years it might be necessary, but right now, the speed and the conditions of the country and realism of the situation, this law is not good, because it creates too many—it doesn't solve the problems, it just complicates them for some people.

Senator HART. As Senator Cotton indicated, your testimony is persuasive. I think your attitude voices eloquently an appeal to enact this law. I hope we do.

Mr. VONETES. I can't do your your thinking for you, Senator, you are on your own. I have given you my thought as honestly as I can.

Senator THURMOND. Anything further?

Senator HART. I am just curious—what am I like? I am Irish. You were talking about Italians and Irishmen.

Mr. VONETES. You want to know what I think of the Irish?

Senator HART. I want you to tell me what I am like.

Mr. VONETES. What you are like?

Senator HART. As an individual?

Mr. VONETES. I am going to tell you right now. You are a fighter, if you are an Irishman; you are a religious man; you go to church; you drink more than the Greeks. What more do you want to know? (Laughter.)

Senator THURMOND. Let's keep quiet, we must maintain order here.

Mr. VONETES. And you have made a tremendous neighbor for me. All my life, I have lived with the Irish in the past. We are the only Greek family there; we have been there 45 years. My mother has company as a widow now, with three Irish ladies, and she prefers that, for the rest of this summer, than being with us in Virginia, so the Irish are good people in general. I mean, I know an awful—I can continue enumerating the virtues. And some of these have to be in you, Senator.

Senator HART. That doesn't follow.

Mr. VONETES. That doesn't follow? Well, I have lived near St. Paul's Church, and I know the Irish that went there, and I know Father Buxton's parish very well, and I know what the Irish are like. Maybe I haven't covered you, but I am talking about the real Irish.

Senator HART. This business of stereotypes just infuriates me.

Mr. VONETES. I am not eliminating your individualism, I am using this as an opening wedge, you see. I mean, I am approaching you, if I knew you were Irish; your name doesn't indicate Irishness, but if it was O'Boyle, or O'Brien, I would know you were Irish. In your case I wouldn't know.

Senator HART. Whether you knew I was Irish wouldn't give you any clue whether I was good or bad.

Mr. VONETES. I didn't say good or bad.

Senator HART. Desirable or undesirable.

Mr. VONETES. I didn't say that; I didn't say that earlier. I don't think you can quote me and check with the stenotypist that I said good or bad.

Senator HART. But it is that kind of judgment I want to be placed on me without the stereotype. When we talk about an individual's rights, we are talking about the claim of every individual to be judged as a good man or as a bad man, not by his color, his religion, his nationality, origin or anything else.

Well, one could say this is very irrelevant, maybe it is, but it expresses my point of view.

Mr. VONETES. Anyway, I enjoyed it, too.

Senator THURMOND. Anyone else? The Senator from Pennsylvania?

Senator SCOTT. Mr. Chairman, my blood line is such a league of nations, I don't think I will ask any questions. I am glad to hear the witness; he was certainly a very interesting witness, and I am glad I had a chance to hear you.

Senator THURMOND. Mr. Vonetes, in closing now, I would just like to ask you this. Are there restaurants and facilities for the Negro people in or around Petersburg?

Mr. VONETES. There are. I sold quite a bit of restaurant equipment to a fellow by the name of Randy Peters, and he operates a place called the Pelican House. He has one. There are several others. And, in truth, there are several of them that are just drops for numbers operations, and they are white lightning joints, where they sell bootleg whiskey and pay no tax on it, of course, and—

Senator THURMOND. But there are restaurants to serve them if they care to be served?

Mr. VONETES. Yes, sir, some of them are good. But if they were patronized more and had habits developed to use them like the rest of the community, they would be better. The demand is not complete, in other words, there isn't a real demand there to make a fellow go into the business and get rich or make a buck, as they say.

Senator THURMOND. In other words, where there is a demand for any type of facility, that demand is generally met, is it not?

Mr. VONETES. The demand is met wherever it is.

Senator THURMOND. For white people or Negro people?

Mr. VONETES. Anywhere.

Senator THURMOND. Or any particular group?

Mr. VONETES. I agree with you, no matter where it is.

Senator THURMOND. That would also apply as to a different occupation, like an undertaker. If there was a need for an undertaker in the community, someone would probably establish the undertaking business, would they not?

Mr. VONETES. That is right.

Senator THURMOND. Isn't that true in most businesses?

Mr. VONETES. It is true to my knowledge in everything. You can't get away.

Senator THURMOND. So is there any shortage of facilities where there is a demand that you know of in your community?

Mr. VONETES. Not in my community and not in Virginia.

Senator THURMOND. I wish to thank you for your appearance here. We appreciate your coming, Mr. Vonetes.

Mr. VONETES. I hope I have been helpful. I don't know.

Senator THURMOND. I cannot agree with the statements that some of the Senators have made; I think you made a very fine statement.

Mr. VONETES. Thank you.

Senator THURMOND. Our next witness is Mr. Thomas Poindexter from Detroit, Mich.

STATEMENT OF THOMAS L. POINDEXTER, ATTORNEY, DETROIT, MICH.; ACCOMPANIED BY ADOLPH DELUE AND MILLARD LUTZ

Senator THURMOND. Mr. Poindexter, I notice you have two gentlemen with you. Would you care to identify them?

Just have a seat.

Mr. POINDEXTER. I would like to introduce Mr. Adolph Delue and Mr. Millard Lutz of Detroit, Mich., who, with myself, are all of the officers of the Greater Detroit Homeowner's Council of the city of Detroit.

Senator THURMOND. You may proceed.

Mr. POINDEXTER. Mr. Chairman, Senator Hart, and gentlemen of the Commission, my name—

Senator HART. May I introduce Mr. Poindexter to Senator Yarborough, Senator Morton, and Senator Scott.

Mr. POINDEXTER. Thank you, gentlemen.

My name is Thomas L. Poindexter, of 16780 Edinborough, Detroit, Mich. I am cochairman of the Greater Detroit Homeowner's Council, an organization composed of some 200 homeowner and civic associations with the combined membership of over 250,000 registered voters in the city of Detroit. The gentlemen Mr. Delue and Mr. Lutz are here with me as the officers of the same association. I have been authorized to state the deep-seated opposition of Detroit residents and the Homeowner's Council to President Kennedy's civil rights program and to public accommodations bill S. 1732. Our views are as follows:

(1) We believe that any civil rights legislation at this time, such as the public accommodations bill or other provisions of President Kennedy's civil rights legislative program, will only serve to destroy any remaining good will between the black and white races in Detroit and many other northern cities.

(2) Such legislation will only increase the violence, unrest, and racial disturbances which have already resulted from actions taken by the President, the Attorney General, and Negro leaders in furtherance of their civil rights program.

(3) That such legislation, including the public accommodations bill, is unnecessary and is politically inspired. As a Detroit NAACP leader has stated of the proposed open occupancy ordinance, such demands are a fraud on the community.

(4) The people of Detroit have accepted voluntary integration as outlined by Supreme Court decisions. But they firmly oppose forced integration by Government decree, such as selling Government property in white neighborhoods to Negroes, the denial of Government-

insured loans, the bussing of Negro children into white neighborhoods, and the issue here before us, the so-called open occupancy laws such as public accommodations bill S. 1732.

SUCH VIEWS ARE HELD BY 99 PERCENT OF DETROIT WHITE RESIDENTS

Recently our council conducted an initiative petition drive against an open-occupancy ordinance proposed by NAACP. In only 4 days, we secured the signatures of 44,000 registered voters, double the number to put our homeowner's rights ordinance on the ballot. But for a filing deadline, we could have obtained 100,000 or 150,000 signatures in another week. And we discovered that 99 percent of white homeowners expressed similar views and willingly signed our petitions.

Greater Detroit Homeowner's Council is not a racist organization. It was organized to promote good government, to oppose unjust taxation, and to promote the welfare of Detroit residents. We are non-partisan and nonsectarian. We are the same people who sent Senators Hart and McNamara to Washington, and we make up Mr. Reuther's United Auto Workers.

I am a Democrat, but the same views have been stated by the 14th district Republican organization and Young Republicans—I have their statements here—and by the chairman of the 21st ward Democratic committee, and by many other groups. I have brought with me, for filing, statements by many community leaders in the surrounding suburbs.

Senator THURMOND. Would you like for those statements to go into the record?

Mr. POINDEXTER. I just have the statements. I would not want to read them at length, but I would say that—

Senator THURMOND. Would you like for them to be printed in the record following your statement?

Mr. POINDEXTER. Yes, I think that would be proper, if it is permitted by the committee.

Senator THURMOND. Is there any objection?

[None.]

Senator THURMOND. So ordered.

Mr. POINDEXTER. The Homeowner's Council, although a fairly new organization, has been rapidly growing in size and influence. We believe we have become the predominant political group in Detroit, although on a nonpartisan basis. For instance, in April we opposed and soundly defeated what we considered to be an exorbitant school tax and construction program which had the support of Republican, Democratic, United Auto Workers, and NAACP leadership. This month we carried out the unprecedented petition drive for a homeowner's rights ordinance. And during the last week we are informed that a similar organization is being formed in Chicago, and wishes to become associated with us.

THERE IS GROWING RACIAL DIVISION IN DETROIT

Civil rights legislation is designed to end segregation, but its effect has been to create a racial barrier between Detroit residents. A year ago, racial relations in Detroit were fairly stable. Today Detroit is

becoming separated into two sharply divided racial camps. Feeling has become so strong that it is doubtful that any Negro or Negro-supported white candidate, will carry Michigan at the 1964 elections. This is true not only for Democratic but for Republican candidates.

There is speculation among many Democrats that Wayne County, which, in recent elections, has been the most strongly Democratic county in the United States, may go Republican or be won by only a narrow Democratic margin.

The reasons are obvious—the popular resentment against use of troops in Mississippi, the President's civil rights program, the current racial marches, threats and violence, but most of all, the demand by NAACP leaders, supported by union leaders, for an open occupancy ordinance requiring white owners to throw open their property to sale or occupancy by Negroes; especially so when Negro leaders at Detroit have admitted that the legislation is unnecessary and is a fraud on the community.

Detroit is a liberal city. Negroes have made their greatest progress here, economically and socially. They enjoy greater freedom and higher standards of living than anywhere else in the world, far higher than President Kennedy or Congress would give them under the proposed rights bills. They occupy many of Detroit's finest residential areas on Boston Boulevard, Arden Park, and Oakman Boulevard. They enjoy equal education in fully integrated schools. They have excellent job opportunities and hold some of our highest elective offices. They fill 48 percent of the government jobs at Detroit.

White people, if any, might complain of discrimination.

But all this fund of good will has been wasted. I agree with the conclusions of a prominent Detroit Negro leader, that race relations in Detroit are being set back 50 years.

THE NEGRO MASTER PLAN FOR DOMINATION OF DETROIT

In other parts of the country, Negro demands seem to be for equality. But in Detroit their demands, backed by labor leaders, seem to be for domination.

In June, Negroes at Detroit attempted to frighten away opposition by a huge march of 150,000 Negroes down Detroit's main thoroughfare, led by Rev. Martin Luther King, whose presence in recent months has usually been a signal for racial tension and violence. Whites were justly apprehensive. But in this instance no violence resulted, only a 4-point demand on white homeowners, the city council, and employers. These include:

- (1) So-called open occupancy legislation.
- (2) Racial mixing of schoolchildren by bussing children out of their home neighborhoods. In other words, bussing white children into colored neighborhoods and colored children into white neighborhoods.
- (3) The breaking down of all-white neighborhoods.
- (4) And finally, a turnover of white-held jobs to Negroes.

Faced with such a master plan, outlined in full in the Detroit News, Detroiters see no point in attempting to break down the President's or the NAACP's program into segments, but will oppose it in the entirety. A former witness, I am not sure it was before this com-

mission, Mr. Walter Reuther, has called for even stronger civil rights legislation from this committee, which we suppose, will be the same as the program announced at Detroit and which had union support. On the contrary, we oppose the enactment of any single part of the President's civil rights program such as the public accommodations bill.

NEGRO LEADERS ADMIT THE PROGRAM IS A FRAUD AND UNNECESSARY

I am speaking of the program at Detroit.

Early this month the NAACP introduced a so-called open occupancy ordinance, modeled after Michigan H.R. 1371 which had been rejected by the current Michigan Legislature. H.R. 1371 was much broader than the Public Accommodation Act. The bill was designed to establish integration and to break up white neighborhoods by requiring white owners to sell or rent their property to any financially qualified buyers or renters, black or white.

We believe these demands, and in fact, the whole civil rights program, are politically motivated and made for propaganda purposes. It has been especially noticeable that Negro leaders are able to turn racial violence and marches on and off at will. When the leadership was faced by our petitions signed by 44,000 Detroiters calling for a "homeowner's rights" ordinance, Negroes immediately dropped their racial marches and began to consider political action instead of threats. In this the President might find a clue for ending the current racial marches and violence.

It is obvious that the demands at Detroit for "open occupancy" are completely unjustified. I believe the same is true of the President's civil rights program, including the public accommodations bill. The July 20 issue of the Negro newspaper, the Chronicle, carries a front page story entitled "Baiting Problem: Can't Find Negroes To Enter Suburbs," reporting that the fair housing committee has 50 listings in the suburbs open to Negroes but can't find purchasers. And yet, we had three racial marches to the suburbs.

And similarly, Detroit real estate firms have compiled long lists of choice homes in good neighborhoods available to Negroes at less than FHA appraisals, but with no takers.

The most surprising statement regarding the Negro demands comes from Mr. James Del Rio, Detroit NAACP leader reported in the Detroit News, July 22, 1963; Mr. Del Rio says:

They are perpetrating a fraud on the community in marching for something we already have—
said Del Rio.

There are homes available for Negroes to buy or rent in every community in Michigan. The housing problem is solved.

WHITE HOMEOWNER REACTION

In Detroit response to these threats and demands has been immediate and decisive. The Greater Detroit Homeowner's Council took the unprecedented step of initiating a "homeowner's rights" ordinance, of which a copy is attached. I may say the copies are separate from the petitions here, but they are available. And which gives residential

property owners the right to sell or rent to whomever they choose. In the short space of 4 days, we gathered and filed petitions with the signatures of 44,000 registered voters—more than double the number required. These are continuing to pile in, although we have already made our filing. But for a deadline, we could have obtained 100,000 or even 150,000 signatures. Almost all circulators reported 99 per cent of those approached signed petitions.

When the council's action was reported by Associated Press, we received offers of support from as far away as Chicago, Dallas, Shreveport, and Oak Ridge, Tenn. We received equally good news coverage from the McGriff papers at Detroit, and the Shreveport, La., Journal. In Chicago, a homeowner's organization similar to ours, with 73 member groups, is being formed, and they have asked to become associated with us. Copies of the homeowner's rights ordinance have been distributed to 50 cities.

Homeowners in Detroit and other cities seem to have found a renewed determination to run their own cities.

MRS. MURPHY AND HER FAMILY GET INTEGRATED

Let's discuss what happens when integration strikes a previously all-white neighborhood.

In the usual case, there will be an immediate rise in crime and violence. Soon there will be an influx of vice, of prostitution, of gambling and dope. There will be an increase in illegitimate births, in the welfare load, a general lowering of the moral standards. Finally the neighborhood will succumb to blight and decay, and the residents will suffer the loss of their homes and savings. In Detroit this means a white investment of \$5 billion.

In Detroit the Negro 30 percent of population commits 90 percent of reported crimes, a ratio 21 times as great as among whites. We say reported crimes, because many crimes, especially to young persons, are hushed up, and go unreported, and charges have been made of juggling statistics to cover up a huge crime increase at Detroit only partially revealed by the recent FBI report.

We know that the illegitimacy rate is 16 times as great among Negroes and the welfare load 21 times as high. There is also the serious problem of venereal diseases.

White residents are justly apprehensive of the spread of social problems into their neighborhoods. They resent the threat to their homes and families that go with forced integration.

But it is crime and violence that whites fear most. Dumbarton Road in Detroit is an example of a recently integrated area. It has nine apartment hotels which would apparently be integrated under the public accommodations bill. Five have already been turned over to Negroes; I say Negroes and not to integration, because the whites have simply moved out en masse. But there has been a spectacular rise in crime. A resident commented to me that almost every day some woman is molested, assaulted, or robbed on the way to the stores on Grand River, only a block away. One woman was stabbed to death while unlocking her apartment. Two taxi drivers have been murdered in the vicinity. A man had his throat cut on the street. All in the past 2 or 3 months, in a half mile circle. And this is only a partial compilation.

Integrated schools at Detroit have fared no better. Two Detroit teachers and a number of students have been stabbed to death. In many areas children are required to pay toll of 25 cents per week to get to school. This toll is paid to young gangs of Negro thugs. Recently, in what seems to be a clear mistake in jurisdiction, a college student was stabbed to death by a 14-year-old Negro for refusal to pay the 25 cents.

A mother picking up her son at the recently integrated Noble School found him backed up against the wall by a Negro with a knife at his throat. Most such incidents go unreported, are hushed up and unpunished.

But I'm sure the committee can understand why Detroiters oppose any forced integration, whether of public or private accommodations or residences.

Is there a moral issue? Some witnesses have argued there is a moral issue presented. We believe not—that the problem is purely political and economical.

In Detroit is the Nation's largest single church and congregation, with more than 17,000 members. Recently we met with the pastor and ministers and were told that they unanimously oppose the President's civil rights program, including the Public Accommodations Act. We believe this disposes of the claimed moral issue.

We therefore urge this committee to make a report unfavorable to the adoption of the public accommodations law or other civil rights legislation.

Thank you.

(The attachments follow:)

STATEMENT UNANIMOUSLY ADOPTED AT REGULAR MONTHLY MEETING (JULY 11, 1963) OF 14TH CONGRESSIONAL DISTRICT REPUBLICAN COMMITTEE—CONCERNED WITH PROPOSED ORDINANCE TO BAR DISCRIMINATION IN RENTAL AND SALE OF PRIVATE PROPERTY IN THE CITY OF DETROIT

1. Since taxes are levied without regard for race, color, creed, or nationality, the benefits and services which are supported wholly and entirely by tax revenue should be provided to all citizens, regardless of race, color, creed, or nationality. That is to say, all public accommodations and all parts thereof which depend for their entire support upon public taxation should be open to all law-abiding citizens regardless of race, creed, color, or nationality, e.g., public parks, public playgrounds, public swimming pools, public schools, etc.

2. Governmentally enforced segregation on the sole basis of race, color, creed or nationality in areas depending entirely for their support on tax funds cannot be justified on the American scene.

3. The elimination of discrimination solely on the basis of race, creed, color, or nationality in both public and private sectors of society as well as in individual and group relationships is indeed a worthy, noble, and worthwhile objective.

4. However, the right to own private property, together with its corresponding to utilize and dispose of that property as the owner sees fit, provided he respects the equal rights of others, is an inalienable right—a right basic to and rooted in human nature, a right, therefore, which society may neither arbitrarily give nor arbitrarily take away but rather is dutybound to safeguard and protect; a right which is recognized as basic by the American Constitution; and a right which countless numbers of Americans have fought and died to protect.

5. Even though society may decide that discrimination in the area of private property solely on the basis of color, race, creed, or nationality is wrong, society still may not rightfully, through the awesome power of the State or Government, compel nondiscrimination on the basis of race, creed, color, or nationality by an individual or group in the use or disposal of his (their) own private property any more than society may rightfully compel discrimination on these same grounds.

6. The right to own, use, and dispose of private property as the owner sees fit, provided he respects the equal rights of others, is as basic to human nature as is the right to freely choose one's own friends. And society has no more right to compel an individual to dispose of his property as society deems fit or wise any more than society has the right to compel an individual to befriend another individual simply because society thinks that these two individuals should be friends.

7. That State or Government which decrees that an individual or group may not discriminate, even if it be solely on the basis of creed, color, race, or nationality, in the use or disposal of his own property—thus compelling him (them) to use or dispose of his (their) property as the State or Government sees fit or deems wise—is guilty of seriously trespassing upon private property; is guilty of a serious infringement upon and invasion of a very basic individual and human right.

8. Nor should an individual be required to explain to any governmental or governmentally constituted or supported agency, the reasons why he is or is not renting or selling his own property to particular persons, for to so require an explanation as this is to employ an indirect form of governmental coercion which is only a more subtle infringement upon the very basic human right to own, use, and dispose of private property as the owner sees fit, provided he respects the equal rights of others.

9. To compel, through the power and authority of Government, a man to rent or sell his own property to someone he would not freely choose to rent or sell to is to reduce the title to his property to nothing more than the mere sheet of paper on which it is written, thereby rendering such title absolutely meaningless. Such compulsion by Government is a serious misuse of governmental power and authority.

10. Likewise, a good end (in this case, the elimination of discrimination—solely on the basis of race, color, creed, or nationality) may not justly or rightfully be achieved through the employment of an evil means (in this case, governmental compulsion of an individual to rent or sell his own property to a person or persons to whom he would freely choose not to rent or sell).

Thus:

1. The 14th District Republican Committee proudly and unalterably stands in full support of:

(a) The right to own private property.

(b) The right of the property owner to use and dispose of his property as he sees fit, provided he respects the equal rights of others, without any undue interference on the part of Government; and this committee stands for these rights as basic to human nature as well as to the American concept of society.

2. The 14th District Republican Committee stands adamantly opposed to any legislation:

(a) Which would compel an individual or group to rent or sell his (their) property to any person or persons to whom he (they) would not freely choose to rent or sell;

(b) Which would compel either discrimination or nondiscrimination solely on the basis of race, creed, color, or nationality in the sale or rental of private property;

(c) Which would authorize any governmentally constituted or supported commission or agency to investigate or question a person or persons on the grounds that he (they) may be discriminating solely on the basis of race, color, creed, or nationality in the sale or rental, use or disposal of his (their) private property.

3. The 14th District Republican Committee stands in favor of continued voluntary efforts on the part of individuals and groups directed toward the day when discrimination solely on the basis of race, creed, color, or nationality in the private sectors of American society may be a thing of the past—but again we stress and emphasize voluntary efforts with no Government interference whatsoever.

EARL H. GRADY, *Secretary*.

STATEMENT, UNANIMOUSLY ADOPTED AT REGULAR MONTHLY MEETING (JUNE 20) OF 14TH DISTRICT (WAYNE COUNTY) YOUNG REPUBLICAN CLUB, TO BE READ AT PUBLIC HEARING BEFORE DETROIT COMMON COUNCIL CONCERNED WITH PROPOSED ORDINANCE TO BAR DISCRIMINATION IN RENTAL AND SALE OF PRIVATE PROPERTY

1. Since taxes are levied without regard for race, color, creed, or nationality, the benefits and services which are supported wholly and entirely by tax revenue should be provided to all citizens, regardless of race, color, creed, or nationality. That is to say, all public accommodations and all parts thereof which depend for their entire support upon public taxation should be open to all law-abiding citizens regardless of race, creed, color, or nationality, e.g., public parks, public playgrounds, public swimming pools, public schools, etc.

2. Governmentally enforced segregation on the sole basis of race, color, creed, or nationality in areas depending entirely for their support on tax funds cannot be justified on the American scene.

3. The elimination of discrimination solely on the basis of race, creed, color, or nationality in both public and private sectors of society as well as in individual and group relationships is indeed a worthy, noble, and worthwhile objective.

4. However, the right to own private property, together with its corresponding right to utilize and dispose of that property as the owner sees fit, is an inalienable right—a right basic to and rooted in human nature, a right, therefore, which society may neither arbitrarily give nor arbitrarily take away but rather is duty-bound to safeguard and protect; a right which is recognized as basic by the American Constitution; and a right which countless numbers of Americans have fought and died to protect.

5. Even though society may decide that discrimination in the area of private property solely on the basis of color, race, creed, or nationality is wrong, society still may not rightfully, through the awesome power of the State or Government, compel nondiscrimination on the basis of race, creed, color, or nationality by an individual or group in the use or disposal of his (their) own private property any more than society may rightfully compel discrimination on these same grounds.

6. The right to own, use, and dispose of private property as the owner sees fit is as basic to human nature as is the right to freely choose one's own friends. And society has no more right to compel an individual to dispose of his property as society deems fit or wise any more than society has the right to compel an individual to befriend another individual simply because society thinks that these two individuals should be friends.

7. That State or Government which decrees that an individual or group may not discriminate, even if it be solely on the basis of creed, color, race, or nationality, in the use or disposal of his own property—thus compelling him (them) to use or dispose of his (their) property as the State or Government sees fit or deems wise—is guilty of seriously trespassing upon private property; is guilty of a serious infringement upon and invasion of a very basic individual and human right.

8. Nor should an individual be required to explain to any governmental or governmentally constituted or supported agency, the reasons why he is or is not renting or selling his own property to particular persons, for to so require an explanation as this is to employ an indirect form of governmental coercion which is only a more subtle infringement upon the very basic human right to own, use, and dispose of private property as the owner sees fit.

9. To compel, through the power and authority of Government, a man to rent or sell his own property to someone he would not freely choose to rent or sell to is to reduce the title to his property to nothing more than the mere sheet of paper on which it is written, thereby rendering such title absolutely meaningless. Such compulsion by government is a serious misuse of governmental power and authority.

10. Likewise, a good end (in this case, the elimination of discrimination solely on the basis of race, color, creed, or nationality) may not justly or rightfully be achieved through the employment of an evil means (in this case, governmental compulsion of an individual to rent or sell his own property to a person or persons to whom he would freely choose not to rent or sell).

Thus:

1. The 14th District Young Republican Club proudly and unalterably stands in full support of:

(a) The right to own private property.

(b) The right of the property owner to use and dispose of his property as he sees fit without any undue interference on the part of Government; and this club stands for these rights as basic to human nature as well as to the American concept of society.

2. 14th District Young Republican Club stands adamantly opposed to any legislation:

(a) Which would compel an individual or group to rent or sell his (their) property to any person or persons to whom he (they) would not freely choose to rent or sell;

(b) Which would compel either discrimination or nondiscrimination solely on the basis of race, creed, color, or nationality in the sale or rental of private property;

(c) Which would authorize any governmentally constituted or supported commission or agency to investigate or question a person or persons on the grounds that he (they) may be discriminating solely on the basis of race, color, creed, or nationality in the sale or rental, use or disposal of his (their) private property.

3. The 14th District Young Republican Club stands in favor of continued voluntary efforts on the part of individuals and groups directed toward the day when discrimination solely on the basis of race, creed, color, or nationality in the private sectors of American society may be a thing of the past—but again we stress and emphasize voluntary efforts with no Government interference whatsoever.

JOHN W. POLLARD, *Chairman.*

NORTH CLAIR HOMEOWNERS ASSOCIATION, INC.,
St. Clair Shores, Mich., July 20, 1963.

DEAR MR. POINDEXTER: We, the members of North Clair Homeowners Association, in the city of St. Clair Shores, county of Macomb, Mich., would like to support the Greater Detroit Homeowners Council in regard to civil rights.

The following is our thinking and views to be presented by you to the congressional committee of Congress on civil rights. In the opinion of our membership we are not opposed to equal opportunity in the field of education, quality housing, public facilities, and employment for the Negro.

However, we would like to point out that the Constitution guarantees equal rights to all men, white, Negro, and all others. With this in mind, we earnestly plead that in your honest endeavor to correct past abuses, you do not lose sight of the fact that we white people, citizens and veterans, also have our inalienable rights as guaranteed by the Constitution which governs all men.

For years the Detroit area has tolerated voluntary housing desegregation without any major incident.

The blockbusting technique of the National Association for the Advancement of Colored People is not a legal means of solution to the problem of decent housing for the Negro. In fact, it makes us pause and ask ourselves if forced integration is what the Negro people themselves want.

The economic cost resulting from this type of desegregation to whites, in many cases is enough to wipe out a person's whole life savings, which in most cases is his home.

It is our opinion that if Congress follows our President's lead, the constitutional rights of the whites are going to be subjected to the Negroes without regard to any given indication of equality.

Very truly yours,

CHARLES DOBSON, *President.*
JAMES H. MADON, JR., *Vice President.*
DIANE M. MALONE, *Secretary.*
ALBERT W. SPECLES, *Treasurer.*

Senator THURMOND. The Senator from Texas.

Senator YARBOROUGH. I have no questions, Mr. Chairman.

Senator THURMOND. The Senator from Kentucky.

Senator MORTON. No questions, Mr. Chairman.

Senator THURMOND. The Senator from Michigan.

Senator HART. Mr. Poindexter, in the last point that you make, you suggest the Nation's largest single church and congregation is in Detroit.

Mr. POINDEXTER. That is correct.

Senator HART (reading):

With more than 17,000 members. Recently we met with the pastor and ministers and were told that they unanimously oppose the President's civil rights program, including the Public Accommodations Act.

And then I read your last sentence:

We believe this disposes of the claimed moral issue.

Mr. POINDEXTER. Yes, sir.

Senator HART. You don't leave yourself any escape hatch on that statement?

Mr. POINDEXTER. Senator Hart, I do not believe that this problem is a moral issue. I believe it is an economic issue and a political issue.

Senator HART. I'm sure it is an economic issue.

Mr. POINDEXTER. Very much so.

Senator HART. I am equally convinced it is a moral issue. And I see your colleagues shaking their heads at me. I feel it is right down to the tip of my toes.

And I got your message, but as long as I'm here, my conscience is my own. My obligation to it is clear in this instance. Believing as I do that the public accommodations bill is right and in the best interests of all Americans I intend to support it.

Mr. POINDEXTER. Senator Hart, may I make a comment on that?

I don't want the members of this committee to think that these gentlemen do not have the highest respect for Senator Hart and our comments regarding candidates from the State of Michigan was not intended to single out any individual candidate.

Senator HART. We can all read and we all know and you have a right to express this point of view, too, just as it is my obligation, I think, to tell you how I feel about it. I think in fairness to my city, in fairness to my State and to those who live in the city of Detroit I want to say for this record that Detroit, as every community in this country, has its problems, its shortcomings, and its unrealized dreams. But the big story of Detroit and Michigan is one of success. It is a good city and a great State. I am proud to be permitted to represent all of those people.

I know the fear, I sympathize with the fear. A person whose whole life investment is in a house and because there is the record of panic sale when a stranger moves next door, he just doesn't want to see that stranger come in. I think this describes a good many people when their hearts wish they could do it otherwise. They wish they could afford to do what instinctively they think is morally right, but they paid \$15,000 for the house, and they are told it will dry up if a stranger moves next door.

I sympathize with that, but just as it is true with the restaurants, if all the restaurants performed as I think most restaurateurs be-

lieve morally they would like to, if all property transactions were handled in this fashion, then there wouldn't be any place to run to and we would discover that property value doesn't evaporate.

But I do sympathize with this concern and this fear. It is a real dollar and cents problem the property owner feels. But to deepen the ghetto, to widen the ghetto is only to buy us greater trouble in the days ahead.

Somehow or another, America, and its urban centers particularly, have to be able to resolve this problem because the deeper and the wider the ghetto, the higher that crime rate you describe, the greater the high school dropouts.

It is a job problem, too. Why stay in high school? My older brother, a good boy, finished high school but he can't get a job. What is the percentage?

Just one specific question—I ask leave, Mr. Chairman, to insert in the record at this point, the Michigan Public Accommodations Act.

Senator THURMOND. Is there any objection?

It is so ordered.

(The act follows:)

MICHIGAN

(Mich. Stat. Ann. §§ 28.343-28.344 (Supp. 1959))

§ 28.343 *Equal accommodations, etc., at restaurants, etc.*

SEC. 146. All persons within the jurisdiction of this state shall be entitled to full and equal accommodations, advantages, facilities and privileges of inns, hotels, motels, government housing, restaurants, eating houses, barber shops, billiard parlors, stores, public conveyances on land and water, theatres, motion picture houses, public educational institutions, in elevators, on escalators, in all methods of air transportation and all other places of public accommodation, amusement, and recreation, subject only to the conditions and limitations established by law and applicable alike to all citizens and to all citizens alike with uniform prices.

§ 28.344 *Penalty; treble damages; revocation of license.*

SEC. 147. Any person being an owner, lessee, proprietor, manager, superintendent, agent or employee of any such place who shall directly or indirectly refuse, withhold from or deny to any person any of the accommodations, advantages, facilities and privileges thereof or directly or indirectly publish, circulate, issue, display, post or mail any written or printed communications, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such places shall be refused, withheld from or denied to any person on account of race, creed or color or that any particular race, creed, or color is not welcome, is objectionable or not acceptable, not desired or solicited, shall for every such offense be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$100.000 or imprisoned for not less than 15 days or both such fine and imprisonment in the discretion of the court; and every person being an owner, lessee, proprietor, manager, superintendent, agent or employee of any such place, and who violates any of the provisions of this section, shall be liable to the injured party, in treble damages sustained, to be recovered in a civil action: Provided, however, That any right of action under this section shall be unassignable. In the event that any person violating this section is operating by virtue of a license issued by the state, or any municipal authority, the court, in addition to the penalty prescribed above, may suspend or revoke such license.

Senator HART. Why do you oppose the Federal act which is about the same as the one we enacted in 1885?

Mr. POINDEXTER. Senator Hart, my feeling is that Detroit is on the verge of a racial breakdown. I am sure—

Senator HART. Mr. Poindexter, let me ask you again—

Senator THURMOND. Let him get through his statement.

Senator HART. I'm not sure he heard. I want to know why he would oppose an enactment of a bill he and I have lived under all our lives?

Mr. POINDEXTER. Because I feel that any similar legislation at this time will encourage racial fighting in Detroit to the point that there may be a racial outbreak in the city of Detroit. And this is one of the measures that will tend to promote that strife.

Senator HART. Haven't you and I been the better for having grown up under such a law?

Mr. POINDEXTER. That, Senator Hart, I could not answer because I don't think there has been any serious problem up to the last year in that regard in Michigan.

Senator HART. Let's not make the picture brighter than it should be, any more than color it unfairly to make it look darker.

The scene of the last major race riot in the United States was Detroit and it was in your lifetime and mine.

Mr. POINDEXTER. That is correct.

Senator HART. Thirty-four were killed in 1943.

Mr. POINDEXTER. That is correct.

Senator HART. Do you attribute that to the open accommodation law?

Mr. POINDEXTER. I don't think that the open accommodations law at that time either contributed to or detracted from it. I don't think that had any relation at that time to the open accommodations law or to the Michigan law which is similar.

The incident, I believe, grew out of a disturbance on Belle Isle in the city of Detroit, a public park.

Senator HART. Don't you think Detroit has learned a lesson and improved in race relations since 1943, that horrible day?

Mr. POINDEXTER. Before, I was going to add, I do not think that the possibility of racial violence in Detroit has been eliminated.

Senator HART. Oh, no; I didn't say that.

Mr. POINDEXTER. I was going to give the Senator two examples that have occurred in the last week. Now there have been many outbreaks of fighting between whites and Negroes, but that is not the point that I have in mind.

There was a meeting of fairly representative citizens of the city of Detroit on Mound Road, which was held in the naval armory by a civic association. There was a speaker there in favor of our current homeowners' rights ordinance. Another gentleman who happens to be a brother of Emil Masey, of the United Auto Workers at Detroit, was at that meeting and asked permission to speak in favor of the so-called open occupancy ordinance.

He had spoken to a certain extent when people in the audience grabbed him, choked him, women beat him with their pocketbooks, and he was escorted from the meeting by the officers surrounding him and taking him out.

There was another meeting about 4 days ago in the city of Detroit in a different area of the city, in which there was a similar discussion and the group became so angry and called the speakers so many bad names, and those included a councilman of the city of Detroit, who has said he will vote for the open occupancy law, and also the assistant corporation counsel of the city of Detroit, that the attorney

became so put out that he took off his coat and offered to fight. This is the dignified assistant corporation counsel of the city of Detroit. And when the disturbance reached that degree among dignified and thoughtful people, there is feeling which could easily break into violence throughout the city of Detroit. And we don't want another racial outbreak.

Senator HART. These were white people you are talking about?

Mr. POINDEXTER. White people, and the person who was beaten was a white man.

Senator HART. I suppose that the moral is that violence is not the characteristic of one race only in this respect.

You have had a minute to think about it. Do you feel, since you and I were able to grow up under an open accommodation statute in Michigan, we are better off or worse off?

Mr. POINDEXTER. Senator Hart, I can only say that I feel that up to the last year, it has had very little significance one way or the other in the city of Detroit or the State of Michigan.

Senator HART. Do you think if the doors to restaurants and hotels had been locked shut to the thousands of Negroes in Detroit all these years, we wouldn't have had great trouble over this issue?

Mr. POINDEXTER. I believe, Senator Hart, that the result would have been different from what you have supposed and that instead there would have been a much smaller immigration to Detroit of Negroes from other areas in the country because Detroit has been notably favorable to Negroes and I believe that has encouraged the Negroes to come to Detroit.

I suppose that the result would have been that many Negroes who came to Detroit would have not come there if there had not been open accommodations.

Senator HART. Do you favor repeal of the Michigan Open Accommodations Act?

Mr. POINDEXTER. I do not favor the repeal. I do oppose any legislation, new legislation at this time.

Senator HART. The legislation this committee is considering is identical with the statute we are talking about.

Mr. POINDEXTER. I would say this, Senator Hart, that the point I am trying to make is that this is a very poor time for such legislation; that in the city of Detroit, it could have disastrous results. I am not saying that it could not be adopted at some later date, but at the present time it is, I think—it would be a terrible thing.

Senator HART. Do you oppose enforcement of the State open accommodations statute at this time?

Mr. POINDEXTER. I do not oppose the enforcement of any law, Senator Hart.

Senator HART. The enactment of this law would add no new enforcement activity at all in Michigan.

Mr. POINDEXTER. I can only say—if that is a question—that I oppose any new legislation which will add fuel to the fires.

Senator HART. You and I agree that the fire burns hot and bright and sears, and I guess our conclusions are differing for the reason that I follow the reasoning that was voiced to this committee last week by the three faiths, Dr. Blake for the Protestants, Rabbi Blank for the Synagogue Council, and Father Cronin for the Roman Catholics.

They, too, acknowledge, as all of us must, the intensity of feeling and the fact that we are on a volcano. But you see I would then feel that the way to respond to this problem is not to, as you say, do nothing so as to avoid adding fuel to the fire, but to crank up a little water on the fire in the form of what I think, as the spokesman for our three faiths indicated, is something that we have to do now in order, as they expressed it prayerfully, "Please God, it will remain a social revolution and not generate into civil chaos."

Thank you, gentlemen.

Mr. POINDEXTER. Thank you.

I would like to say this, Senator Hart, that speaking of the three faiths, I happen to be a Protestant, married to a Catholic, and I have two Jewish partners, so I feel that I am versed somewhat in the three faiths.

Senator THURMOND. Does the Senator from Michigan have any further questions?

Senator HART. I wonder whether this ought to go on the record, not because of anything other than it being perhaps misunderstood. I might just as well put it on the record.

We are talking about this religious business, what is right and what is wrong morally, forgetting the economics and the fears, old traditions, disagreeable experiences, all of which we have been exposed to wherever and however we grew up. I am no theologian. I can't claim the diversity within my family that Mr. Poindexter points to, but on this business of how we should act as Americans, I am not pretending it is as easy to do as we say, but I am suggesting to those who talk about religious conviction and who are familiar with the Bible, just ask yourself what Mary and Joseph would have done if strangers had moved next door at Nazareth. Then I think we should all try to do that which we know they would have done, admitting that it is hard sometimes.

Thank you.

Senator PASTORE (chairman). Any further questions?

Thank you very much, gentlemen.

Senator THURMOND. Mr. Chairman, I would like to make this comment. I don't have any questions; I just want to state, Mr. Poindexter, that you made a very interesting statement here. We wish to thank you for appearing here and giving us the benefit of your testimony.

Mr. POINDEXTER. Thank you.

Senator PASTORE. Thank you, gentlemen, for coming.

Our next witnesses are the representatives of the Columbia, (S.C.) Citizens Committee. I understand Mr. Thurmond would like to make the introduction.

Will the gentlemen come forward?

Senator THURMOND. Mr. Chairman, we have from the congressional action committee from the Greater Columbia Citizens Committee five gentlemen. Mr. John F. Chick is the chairman of this group. He has with him Mr. J. Drake Edens, Jr., Mr. Emert S. Rice, J. C. Connell, and Mr. A. Mason Gibbes. All of these are very prominent businessmen in the city of Columbia. They are outstanding citizens, and it is a great pleasure for me to present them at this time.

Senator PASTORE. Gentlemen, we are indeed happy to have you. You are most welcome.

And now you may proceed in any way you like.

STATEMENT OF JOHN F. CHICK, CHAIRMAN, CONGRESSIONAL ACTION COMMITTEE, GREATER COLUMBIA CITIZENS COMMITTEE; ACCOMPANIED BY J. DRAKE EDENS, JR., EMERT S. RICE, J. C. CONNELL, AND A. MASON GIBBES

Mr. CHICK. Thank you very much.

Mr. Chairman and other members of the Senate Commerce Committee, we appear before you today with a five-man delegation representing business interests of a community of some quarter of a million citizens of Metropolitan Columbia, S.C. Our purpose is to plead for the protection of the freedoms of all Americans.

Specifically, we would like to call your attention and the attention of the Nation to one particular segment of the administration's civil rights proposal. This is to place under Federal injunctive control any complaint made by an individual against any facility open to the general public based on some questionable denial of full privileges. It is a privilege not a right to enter a man's property, be it his home or business.

The legal trick which virtually covers the entire Nation is essentially this: "Any establishment must allow full enjoyment to all citizens of all facilities that appreciably affects interstate commerce." We make the point that every commercial establishment can be classified as dealing in interstate commerce. The interpretation of any degree of participation would be left up to a handful of men far removed from the locale of the complaint.

The enactment of such a provision into the law of the land which guarantees a man the right to own and control his own property would would be a 180° turn from the intent of the Constitution of the United States. It would be the greatest restriction of personal liberty ever perpetrated on the citizenry of this free Nation. It is our fervent hope that this committee will not report favorably on legislation based on such a dangerous catchall as "interstate commerce" as it applies here.

Senator PASTORE. Do your colleagues desire to add to this statement?

Mr. CHICK. We will be glad to answer questions, if you so desire.

Senator PASTORE. Senator Thurmond?

Senator THURMOND. Thank you, Mr. Chairman.

Mr. Chick, I wish to express my appreciation to you gentlemen for coming here today. You have come here at your own expense and you have voluntarily come here. You wish to assist in this case because, as you state, you believe that a man has a right to operate his own business, you believe in freedom, you are opposed to Federal compulsion; and for those principles I want to say that I am in hearty accord with you, and I wish to express my gratitude to you for coming here on this occasion.

Senator PASTORE. Thank you, Mr. Thurmond.

Senator Hart?

Senator HART. Thank you, gentlemen.

Senator PASTORE. Thank you very much.

(Senator Thurmond requested that the two following communications be placed in the record:)

STATEMENT BY THE GREATER CHARLESTON CHAMBER OF COMMERCE ON
CIVIL RIGHTS LEGISLATION

The local and national chambers of commerce, historically, have stood for free enterprise and the right of the individual to complete freedom of choice in business and private life limited only by respect for this same right for others. Furthermore, the chambers have consistently maintained that the Federal Government should act only on those problems that must be solved but which cannot be solved either by voluntary effort or by local or State government.

Civil rights legislation, as presently proposed, clearly violates both of these basic principles. The decay of a society goes hand in hand with the usurping of individual rights by government. When individuals, regardless of race, use government to force their desires on others they are contributing directly to the decay of society and loss of their own self-respect.

Therefore, the Greater Charleston Chamber of Commerce strongly opposes the efforts of those in our National Government who attempt through fear and emotional appeals to establish a false need for so-called civil rights legislation at the national level. We believe that protection of the rights of individuals in the racial area is inherently a local problem and must be handled at that level.

Unanimously adopted this 25th day of July 1963 by the board of directors of the Greater Charleston Chamber of Commerce.

THOMAS F. THORNBILL, *President*.

Attest:

G. S. VINCENT,
Assistant Executive Director.

SOUTH CAROLINA STATE CHAMBER OF COMMERCE,
Columbia, July 16, 1963.

To Members of the South Carolina Congressional Delegation, Local Chambers of Commerce, State Chamber Officers and Directors.

GENTLEMEN: Subsequent to consideration by the board of directors of the South Carolina State Chamber of Commerce, and as the result of recent action by our executive committee, the following official policy regarding proposed civil rights legislation being considered by Congress has been announced:

"The South Carolina State Chamber of Commerce regards the proposed Civil Rights Act as a serious encroachment upon the authority of the States, the constitutional rights of property owners, and the freedom of individuals. We believe that we cannot have freedom with compulsion, nor should one group be given privileges over others.

"Over the years, the State chamber has consistently maintained that the Federal Government should take action only on those problems which cannot be solved either by voluntary effort or by local or State governments. In the present situation, we believe that emotionally inspired legislation would aggravate rather than resolve the problem.

"It must be recognized that conditions vary from State to State and from community to community. Racial matters can, in our opinion, best be handled within the respective States. Sensible and responsible action is producing solid answers to this problem at the State and local levels in South Carolina."

It is our belief that you will be interested in the above and would like to have your own copy of the State chamber's statement.

Sincerely,

JOSEPH P. RILEY, *President*.

Senator THURMOND. Mr. Chairman, I have a few statements here.

I would like to place in the record a statement by the Honorable Charles J. Bloch, from the State of Georgia, one of the most prominent lawyers, a very able student of the Constitution.

Senator PASORE. Without objection, it is so ordered.

(The document follows:)

STATEMENT OF CHARLES J. BLOCH, ATTORNEY, MACON, GA.

I am not a public officer holder. I have never held an elective public office but once. In 1927, I was a representative from my county of Bibb in the House of Representatives of Georgia. Richard B. Russell, Jr., was then speaker of the house. Later he was Governor of Georgia. Now he is a U.S. Senator from Georgia.

I am a lawyer. I have no aspirations to be anything else. I am, as a lawyer, expressing my opinion as to the legality—the constitutionality, of S. 1732—a bill to eliminate discrimination in public accommodations affecting interstate commerce.

If the bill effects its declared purpose, it must do so in section 3 thereof. Section 2 is headed "Findings." Whether those findings are findings of fact, relevant or irrelevant, or merely expressions of opinion, or conclusions of the pleader, seems immaterial to the issue presently considered.

That issue is: Is section 3 of the bill constitutional under the Constitution of the United States as presently construed in decisions of the Supreme Court of the United States?

For section 3 to be valid it must satisfy one of two tests:

1. It must be "appropriate legislation" under section 5 of the 14th amendment; or

2. It must validly and constitutionally regulate commerce among the several States under article I, section 8, paragraph 3, of the Constitution.

"Every valid act of the Congress must find in the Constitution some warrant for its passage" (*United States v. Harris*, 106 U.S. at p. 636).

1

For it to be "appropriate legislation" under section 5 of the 14th, it must appear that it prevents a State from denying persons within its jurisdiction the equal protection of the laws.

Those whose acts are sought to be regulated are listed in sections 3(a) (1) (2) (3)—I, II, III, and IV of the bill. All are private persons, individual or corporate. No one of them is an arm of the State.

In *United States v. Harris*, 106 U.S. 629, a certain section (5519) of the Revised Statutes was considered by the Court. This section "was framed to protect from invasion by private persons, the equal privileges and immunities under the laws, of all persons and classes of persons." The Court speaking by Justice Woods said of the 14th amendment:

"The language of the amendment does not leave this subject in doubt. When the State has been guilty of no violation of its provisions; when it has not made or enforced any law abridging the privileges or immunities of citizens of the United States; when no one of its departments has deprived any person of life, liberty, or property without due process of law, or denied to any person within its jurisdiction the equal protection of the laws; when, on the contrary, the laws of the State, as enacted by its legislative and construed by its judicial and administered by its executive departments, recognize and protect the rights of all persons, the amendment imposes no duty and confers no power upon Congress" (p. 639).

In so holding, the Court followed *United States v. Cruikshank*, 1 Woods 308; 92 U.S. 542; *Virginia v. Rives*, 100 U.S. 313. In the last named case, the Court categorically said:

"These provisions of the 14th amendment have reference to State action exclusively, and not to any action of private individuals."

These cases were followed in the *Civil Rights Cases*, 100 U.S. 3, to which copious reference has been made.

They constitute the "law of the land" as declared by our Supreme Courts since the adoption of the 14th amendment.

What is there in this bill to change the established law of the land? If one sworn to uphold and defend the Constitution of the United States came to consider whether this bill was in violation of constitutional principles as repeatedly declared by the Supreme Court, what is there in this bill which would justify a legislator or a judge in ignoring the established constitutional principles?

Certainly there is nothing in any of the findings which would, if it could, convert purely personal action into State action.

These findings are in section 2(h) of the bill denominated "discriminatory practices." If they are discriminatory practices they are not those of a State. If they had been, there are decisions of our Courts, if not statutes, which can be used to halt them.

There is an effort in section 2(h) to convert these individual practices into State action. The attempted conversion rests on two bases.

One base is that the "practices" "are in *all* cases encouraged, fostered or tolerated in some degree by the governmental authorities of the State in which they occur, which license or protect the businesses involved by means of laws and ordinances and the activities of their executive and judicial officers."

I have italicized the word "all." Its use especially causes me to doubt the truth of the "finding." I have heard that there are hotels in Maine and Rhode Island and New Hampshire which discriminate against "other minority groups" (sec. 2(c)). I doubt that if such discriminatory practices exist, that they are fostered, encouraged, and tolerated by the governmental authorities of those States. But even if they were; even if one who happened to be a "governmental authority" encouraged discrimination, such would not constitute State action. I am not unmindful of *Lombard v. United States*, 31 U.S.L.W. 4476, but even that does not convert personal actions into State action on so broad a scale.

The other base is:

"Such discriminatory practices, particularly when their cumulative effect through the Nation is considered, taken on the character of action by the States and, therefore, fall within the ambit of the equal protection clause of the 14th amendment to the Constitution of the United States."

The argument there made is that personal actions many times multiplied become State action. If a great many hotelkeepers throughout the Nation discriminate against those of a religious group the actions of the many become the "action by the States." What States, I wonder? That finding may be good psychology or sociology. That I do not know. I do know that it isn't good law. I daresay that there isn't a lawyer in Congress who would be of the opinion that the equation: "Individual action in many States equals State action" is good law.

It is clear that the bill is not appropriate legislation under the 14th amendment.

II

The bill does not validly and constitutionally regulate commerce among the several States under article I, section 8, paragraph 3 of the Constitution.

For the bill to be valid under the Commerce Clause, both the persons discriminated against and those discriminating would have to be engaged in commerce.

First Employers Liability Act cases: 207 U.S. ———. (See also *Walling v. Jacksonville Paper Co.*, 317 U.S. 564; *Overstreet v. North Shore Corp.*, 318 U.S. 125; *McLeod v. Threekild*, 319 U.S. 491.)

This bill is more grossly defective because here neither "discriminatee" nor "discriminator" is engaged in interstate commerce.

Section 3(a) shows clearly that despite the language of the findings, the "all persons," with which words section 3(a) commences, need not be interstate travelers, or persons moving in interstate commerce.

"All persons shall be entitled, without discrimination * * * to the full and equal enjoyment of the * * * services * * * of the following public establishments."

"All persons" in section 3(a) includes the person who may live next door to the "hotel" mentioned in section 3(a)(1).

It needs nothing further to have demonstrated that the "discriminatee" need not be engaged in commerce.

Does the bill confine those classed as discriminators to persons engaged in interstate commerce?

The "discriminatees" (alluded to in the bill as "public establishments" are in reality private business) are the following:

"(1) Hotels, motels, or other public place [sic] engaged in furnishing lodging to transient guests * * *;

"(2) Places of amusement;

"(8) Retail shops, and the like."

Now, what is there in the bill which converts these purely local businesses into instrumentalities of interstate commerce?

Perhaps the idea is that because guests of those private businesses (erroneously designated as public places) may sometimes be from other States or traveling in interstate commerce, that at all times these places are engaged in interstate commerce.

Perhaps, too, the legal basis is thought to be cases under the Fair Labor Standards Act such as *Kirschbaum v. Walling*, 316 U.S. 517; *Fleming v. Arsenal Building Corp.*, 125 F. 2d 278; *Montino v. Michigan Window Cleaning Company*, 327 U.S. 603. They are as readily distinguishable as the Fair Labor Standards Act is distinguishable from this bill.

That act (title 29, sec. 213(a)(2)) exempts employees of retail or service establishments which have been held to be the local merchant, corner grocer, or filling station operator, who sells to or serves the ultimate consumers who are at the end of, or beyond, that "flow of goods in commerce" which that act was intended to reach (*Roland Electric Co. v. Walling*, 320 U.S. 357).

If the Congress has the supposed power over hotels, motels, and lodging houses here sought to be asserted, then Congress has the power to regulate them in every respect, even as to the rates they can charge for rooms.

With respect to section 3(a)(2), the idea seems to be that because motion picture films, performing groups, athletic teams, and the like, have moved in commerce to reach the motion picture house, theater, sports arena, stadium, exhibition hall, or other place of amusement, the operators of those places are engaged in interstate commerce.

The idea seems to be, too, that because a motion picture house in any city or town, large or small, shows a picture the film of which has moved in interstate commerce, it is so engaged.

Cases which throw light on this are:

Federal Baseball Club of Baltimore v. National League, 259 U.S. 200; *Toolson v. New York Yankees, Inc.*, 346 U.S. 353; *United States v. International Boxing Club*, 348 U.S. 236; *United States v. Shubert*, 348 U.S. 222; *Radorich v. National Football League*, 352 U.S. 445.

A mere reading of those cases will demonstrate that it does not follow from any ruling that the Supreme Court has made, when the North Augusta, S.C., High School football team travels across the Savannah River bridge to play an Augusta, Ga., high school team, the operators of the stadium in which the game is played are so engaged.

Because Congress can prohibit the shipment of certain moving picture films (such as those of boxing bouts) in interstate commerce, it does not follow that all motion picture houses showing films which have moved in interstate commerce at some time or other, and which have come to rest in the State where they are shown, are engaged in interstate commerce. (Compare *Weber v. Freed*, 239 U.S. 323, and see 11 American Jurisprudence, Commerce, sec. 93, p. 84.)

Retail shops, drug stores, and the like are sought to be controlled by Congress if: (1) What they offer is provided to a substantial degree to interstate travelers, (2) if a substantial portion of the goods held out by them has moved in interstate commerce, (3) if their activities or operations otherwise substantially affect interstate travel, (4) if the place is an integral part of one of the other three elements.

Under (1), a filling station on the side of a highway sells gasoline to a "substantial" number of interstate travelers; he thereby becomes engaged in interstate commerce.

He becomes so under (2) regardless of to whom he sells if the gasoline he sells has moved in interstate commerce.

Up to this time, and since 1827, it has been the law that sales of articles brought into a State are protected and governed by the Interstate Commerce Clause only so long as they are in the original receptacles or containers in which they are brought into a State. Mr. Chief Justice Marshall so held in *Brown v. Maryland*, 12 Wheat. (U.S.) 419. The doctrine has been the "law of the land," therefore, for 136 years. (See the numerous cases cited, 11 Am. Jur., Commerce, sec. 56, p. 51, notes 17 and 18; *ibid.*, sec. 61, p. 56.)

Perhaps all of the States of the Union had best beware, for, if the gasoline sold by a retail dealer to passing motorists remains in interstate commerce at the time of the sale, no State can tax the sale.

Senator THURMOND. I would like to insert a statement by the attorney general of the State of Georgia, Eugene Cook.

Senator PASTORE. Without objection it is so ordered.

(Document follows:)

STATEMENT OF EUGENE COOK, ATTORNEY GENERAL OF GEORGIA

Mr. Chairman, I herein wish to express my unqualified opposition to what I consider the most evil and far-reaching legislation proposed to this Congress within the period of my recollection.

I can think of nothing more alien to our free enterprise system, more contrary to our concepts of ordered liberty, and more destructive to the basic principles of our federalism, than the measure which this distinguished committee is now considering.

The most fundamental issue at stake in this controversy is not the morality or wisdom of an owner's decision to restrict the use of his facilities to a particular race or creed. This is a matter concerning which a great deal of disagreement exists, and I hardly think it necessary to add, one which will not have been finally solved when this learned body adjourns, whether today, tomorrow, or 100 years hence.

Nor do I consider the overriding issue here to be whether or not it is the proper function of Government to enter the area of regulating such personal relationships between man and man, although I think it not inappropriate to say in this respect that either "liberty" means the right to utilize one's property and facilities contrary to that dictated by the majority's prevailing sense of moral values, or else it means nothing. It can hardly be gainsaid that freedom in the larger sense by no means inheres in doing only that which through the passage of time has come to be the dominant sentiment of the community.

Indeed, the most enlightened feature of that Government established almost 200 years ago was the notion, liberal in the truest sense, that God created man a free agent, and endowed him with certain natural or inalienable right beyond the pale of organized society to circumscribe; that freedom means freedom from governmental restraint if it means anything at all; that in many things it is immoral to enlist the authority of Government to achieve even moral ends; and that for the good or evil exercise of his rights man is answerable to a divine providence which is the only judge safely to be trusted in such matters.

But as vital as these considerations are, they still do not constitute the paramount issue which I think is now before you gentlemen.

The transcendent question which emerges in the present conflict is whether coercion, intimidation, strife, riots, and violence are to supplant reason, debate, and the other normal processes of legislation procedure.

Nine years ago, revolutionary doctrine established in the *Brown* case abruptly upset social relationships in my part of the country, relationships of over 100 years' duration. As was to be expected, many officials and citizens in the area most directly affected expressed disapproval of that decision, as we felt that it was not only wrong, but that the judges rendering it knew that it was wrong, else it would not have been necessary to substitute what Judge Armstead Doble characterized as "Communist anthropology" for law.

For this expression of disagreement, we in the South were bombarded with a barrage of sermonizing. Pious appeals to law and order were tearfully rendered. Charges of insurrection and rebellion were made by learned commentators. Some were so bold as to whisper the dirty word "traitors."

Out of this unrest there developed a grave constitutional crisis in Little Rock, Ark. The Supreme Court convened in special session, and took the unusual step of rendering its decision the day following oral arguments.

In stentorian tones, that august Tribunal declared:

"* * * Constitutional rights * * * are not to be sacrificed or yielded to * * * violence and disorder * * *. Thus law and order are not here to be preserved by depriving the Negro children of their constitutional rights * * *"
Cooper v. Aaron, 358 U.S. 1 (1958).

More recently, in a decision from my own State, the Supreme Court has restated the proposition that the possibility of disorder by others cannot be used to justify proscriptions against those who are the objects of the threats of disorder, simply because the exercise by the latter of acknowledged constitutional rights appears distasteful to the former. *Wright v. Georgia*, —U.S.—, 81 Law Week 4487 (1963).

Is not this exactly the identical situation presented here? A citizen has a business, whether it be a restaurant, department store, or filling station. That business is "property." Property is one of the most sacred of all personal rights, except in those countries where private property and personal liberty are nonexistent. It is protected by the Due Process Clause. It cannot be taken for public purposes without payment of just compensation. In the exercise of these rights so protected, an owner establishes a policy concerning those whom he will serve. Other persons not included in this group resent their exclusion. To evidence their resentment, they engage in mass marches, blocking the streets and obstructing the normal channels of commerce. Demonstrations are conducted; the streets are filled with people who shout insults, vilification, and threats. Innocent bystanders are assaulted. Windows are smashed; vehicles are overturned, and in general chaos is inflicted upon a too-tolerant society under the guise of exercising constitutional rights.

What does the administration propose as a solution to this problem? If the cases I have discussed are still the law, the obvious course is to restrain and arrest those who are breaching the peace. But no, current philosophy rejects the logical, the just, and the legal. Instead, the administration proposes to appease the mob by giving into it. The just rights of property are to be sacrificed in order to pacify the rioting throng, just as a cowardly sheriff who surrenders his prisoner to a lynch mob in order to restore "order."

Mr. Chairman, I submit that today the right of citizens to assemble and petition Government for redress of grievances has been distorted—it has been perverted—beyond the reasonable bounds of the exercise of any legal rights.

What we are faced with today is an unadulterated resort to violence, rebellion, and intimidation. This is the simple fact of the matter, and its character is not changed by virtue of its being cloaked as an assertion of constitutional rights. The same law, the same principles which condemn violence by white citizens in Little Rock, Alabama, or anywhere else, are equally applicable here. There is no double standard of conduct. Violence is violence, regardless of racial identities.

During 1962, in one of the larger cities in my home State, a horde of professionally trained outside agitators moved in and transformed an otherwise peaceful community into a holocaust of chaos, bitterness, and rioting. The situation became so bad that on numerous occasions practically the entire police force was deployed in a small downtown area of two or three blocks where demonstrations were taking place, leaving the remainder of the city virtually unprotected.

These demonstrations would always begin with mass meetings at two churches on opposite street corners in the city of Albany, Ga., at which the hard-core leaders would whip the attending crowds into an emotional frenzy.

As one example of the type of speech given at these meetings, I would like to quote briefly from the official transcript of the case of *Kelley v. Page et al.*, Civil Action No. 727, U.S. District Court for the Middle District of Georgia, Albany Division, a case growing out of the Albany disturbances. At page 424 of the transcript, the State placed in evidence the sworn testimony of a radio announcer who played back a tape of a speech by Rev. Ralph D. Abernathy, an official of the Southern Christian Leadership Conference, in which the following was said to a howling, clapping, and excited throng:

"We've been waiting a long time for freedom and we've * * * It now. Our black brothers, our fathers, died on foreign battlefields, fighting to defend America. They died in the foxholes and in the trenches of Normandy, they died on that Sunday morning at Pearl Harbor. And if they could die in Europe and the Pacific theater of operations, to defend America, why in the devil can't some of us die, if necessary, here in Albany? They make me sick and tired—I've seen a few Negroes drawing up simply because they might have been hurt in the shuffle."

Following speeches such as this, a group of disciplined marchers would leave the churches and proceed to the uptown area, led by one or more of the officials of the several so-called civil rights organizations. All available news media had been tipped off by the leaders prior to each march, and the police usually could anticipate a demonstration by the sudden appearance of photographers and TV cameramen.

I should say at this point that there were always two groups which had to be considered in any of these demonstrations: The disciplined marchers who remained in a formal column and who themselves generally committed no outward acts of violence. Second, the huge disorganized mob which always followed

along, led on and encouraged by the former. This is the group which caused the disturbances, but the leaders of the "formal" group always had it carefully planned that way.

On one occasion, 267 marchers marched into downtown Albany, walking against traffic lights, blocking traffic and causing it to back up for blocks. A large throng gathered around the bus station located at the beginning of the predominantly colored section of town, cursing and threatening police officers.

When the marchers were arrested for parading without a permit, the police picked up a bucket full of switch-blade knives from the alley where these peace-loving demonstrators were marched into the police station.

On December 17, 1962, a march involving 260 persons was led by Rev. Martin Luther King, Jr., and Dr. W. G. Anderson, leader of the "Albany movement." As the marchers progressed down the street, Reverend King and Dr. Anderson, without solicitation, were heard to exclaim to passers-by, "Hit me first."

During the month of July, there were numerous instances of mass marches, involving as much as 2,500 persons, at which police and FBI cars were rocked, police officers were cursed and threatened, traffic was blocked; the bus station overrun by rioting crowds; one police officer was backed up against the wall of a building by a crowd of 400 or 500 Negroes, some with knives in their hands; it became necessary to close all downtown businesses; the mirror on the police wagon was shot off and oil-soaked rags were placed under the dash and ignited.

The worst incident occurred on July 24, 1962, and involved 3,000 to 4,000 demonstrators, led by Rev. Martin Luther King, Jr., and Rev. Ralph D. Abernathy.

The situation became so critical in the Harlem area, that the chief of police felt it necessary to march all available forces down into the area in a column, with explicit instructions not to break ranks under any circumstances. As the officers entered the area, rocks and bottles began to fly like mortar shells. One officer was hit by a bottle and a State patrolman was hit in the face with a rock, breaking two teeth. One of the motorcycles was hit with a rock. Between 10:28 and 12:11, during the riot, eight false fire alarms were turned in from the Harlem area. The crowds blocked traffic. One witness, experienced in evaluating crowds, testified that in his opinion, the only thing which prevented bloodshed was the act of Chief Pritchett in marching into the area. The Negro spectators hurled filthy and obscene epithets at the officers. As the police marched down South Jackson, the Negro spectators lining both sides of the street would run out in the street and spit at the officers. Rev. King and Dr. Anderson stated later that they would have to assume part responsibility for the violence of the 24th.

The philosophy which motivates the present civil rights movement was very well stated by Rev. Martin Luther King, Jr., on cross-examination, where he testified as follows:

"Question. Now, Dr. King, let me ask you this question: A lot of people, conscientious people, disagree with certain Supreme Court decisions; do you think those people are justified, if their conscience tells them, in going out and violating those decrees and advocating to others that they violate them?

"Answer. I think—yes sir; I think that they have that right if they will do it openly. If they will willingly accept the penalty, if they will do it in loving, nonviolent spirit and not curse and use terms that deal with Negroes as if they are dogs; if they are willing to accept the penalty, if they do it openly, fine; but if they seek to subvert, if they seek to evade the law, I think that's wrong; and I think that this is what they've done.

"Question. In other words, you think that an open defiance of the law is all right but that if a person tries to, as you say, evade or circumvent, that that's wrong?

"Answer. No, sir; I don't think an open—I would not like to see them defy, evade, or seek to circumvent the law. I would say that it becomes right when conscience tells them it is unjust and they openly, nonviolently, lovingly break the law and willingly accept the penalty by staying in jail, if necessary, to point out the deficiencies of the law and arouse the conscience of the community so that it will see that it is wrong.

"Question. In other words, you're saying that it's a state of mind and motivation of the individual that's the determining factor?

"Answer. Well, no, sir; I don't think it's the state of mind only, but only if that state of mind is coupled with a deep-seated moral conviction and that moral conviction takes one to the point of seeking to secure the moral and

which is in the mind through moral means. Now, what often happens is that people seek to secure what they think are moral ends through immoral means, and I think this is wrong because the end is preexistent in the means.

"Question. Right there, who is going to determine whether it is a moral or immoral end, Dr. King? Are you going to make that determination or is somebody else going to make it and, if so, who would it be?

"Answer. Well, I would hope that the community and the Nation and the people of good will would make it as a result of the self-inflicted suffering that people who move out on a moral principle are willing to undertake. I'm not saying that they take the law in their hands, but they believe so much in the sacredness of the law when it is a right law that they are willing to suffer in order to see that those laws which are not right are somehow made or remade to square with that which is morally right.

"Question. I follow your explanation, I understand your explanation, but I am still not certain who you are saying is to make this determination as to whether it's right or wrong?

"Answer. Well, the individuals involved are the ones, the individual conscience is the issue at that point."

This same pattern is now being repeated throughout the entire country.

Gentlemen, we are faced with a crisis, we are faced with a sinister, cunning conspiracy of professional agitators, trained in techniques of creating dissension and strife. The two weapons they employ are unrest and embarrassment. Unrest aimed at generating such a state of disorder, confusion, and hatred that decent people refuse to come into the downtown areas where the incidents are taking place. The economic situation thus generated is then exploited to the fullest, through the demonstrated aversion of business leaders to any form of strife, "it's bad for business."

Embarrassment is exploited with respect to the country's foreign relations. Cogizant of our present struggle to maintain our position as the leading power in the world, a calculated effort is made to force concessions by the old game of blackmail, as if to say to the leaders of our country, "If you don't give in, we will wage a campaign designed to embarrass you in the eyes of the rest of the world."

What I have said here is relevant in that it demonstrates what everyone recognizes as the inspiration for this legislation—the present administration's determination to supinely surrender to mob rule and attempt to pacify the mob by sacrificing the property of private owners.

Moreover, turning to the content of legislation itself, I am of the opinion that its unconstitutionality is clear.

The administration apparently concedes that Congress cannot enact legislation in this field outside the realm of the Commerce Clause, for 80 years ago the Supreme Court established the bedrock principle in the famous *Civil Rights Cases*, 109 U.S. 3 (1883), that the 14th amendment does not empower Congress to adopt legislation outlawing discrimination in hotels, inns, theaters, and other accommodations. In 1875, Congress had passed an act entitled "An Act To Protect All Citizens in Their Civil and Legal Rights," 18 Stat. 335, and which declared that all citizens are entitled to the "full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters, and other places of public amusement." Both civil and criminal penalties were imposed for violations. Indictments were brought under this act against four defendants, charging variously, discrimination against Negroes with respect to hotels, inns, and a theater. A civil action to recover a penalty had also been instituted by a Negro against a railroad for refusing to seat his wife in the white section. In all these cases an attack upon the constitutionality of the law was made, and on reaching the Supreme Court, the cases were consolidated and decided together. The Court held the act of 1875 unconstitutional, declaring that Congress power under the 14th amendment was limited to State action. Speaking of the amendment, the Court declared:

"It does not invest Congress with power to legislate upon subjects which are within the domain of State legislation; but to provide modes of relief against State legislation or State action, of the kind referred to. It does not authorize Congress to create a code of municipal law for the regulation of private rights; but to provide modes of redress against the operation of State laws, and the action of State officers executive or judicial, when these are subversive of the fundamental rights specified in the amendment" (27 L. Ed. 839).

The Court concluded with a general observation which is even more pertinent today:

"When a man has emerged from slavery, and by the aid of beneficent legislation has shaken off the inseparable concomitants of that State, there must be some stage in the progress of his elevation when he takes the rank of a mere citizen, and ceases to be the special favorite of the laws, and when his rights, as a citizen or a man, are to be protected in the ordinary modes by which other men's rights are protected" (27 L. Ed. 844).

Much later, in *Shelly v. Kramer*, 334 U.S. 1 (1948) it was said:

"Since the decision of this Court in the *Civil Rights Cases*, 109 U.S. 3, 27 L. Ed. 835, 3 S. Ct. 18 (1883), the principle has become firmly embedded in our constitutional law that the action inhibited by the first section of the 14th amendment is only such action as may fairly be said to be that of the States. That amendment erects no shield against merely private conduct, however, discriminatory or wrongful" (92 L. Ed. 1180).

Therefore, the public accommodations bill here must necessarily stand or fall upon the Commerce Clause. But so recently as 1959, the U.S. Court of Appeals for the Fourth Circuit has declared that the Commerce Clause is not applicable to public accommodations such as those involved here. In *Williams v. Howard Johnson's Restaurant*, 268 F. 2d 845 (O.A. 4th 1959) a Negro attorney in the Internal Revenue Department brought suit in Federal court against a Howard Johnson restaurant located on an interstate highway, based upon the restaurant's refusing him service because of his race. Reliance was placed both on the Civil Rights Act of 1875 and the Commerce Clause. The court of appeals rejected both contentions, pointing out that the 1875 act had been held unconstitutional in the *Civil Rights Cases*, supra, and as to the Commerce Clause argument, it was said:

"The plaintiff makes the additional contention based on the allegations that the defendant restaurant is engaged in interstate commerce because it is located beside an interstate highway and serves interstate travelers. He suggests that a Federal policy has been developed in numerous decisions which requires the elimination of racial restrictions on transportation in interstate commerce and the admission of Negroes to railroad cars, sleeping cars, and dining cars without discrimination as to color; and he argues that the Commerce Clause of the Constitution (art. I, sec. 8, clause 3), which empowers Congress to regulate commerce among the States, is self-executing so that even without a prohibitory statute no person engaged in interstate commerce may place undue restrictions upon it.

The cases upon which the plaintiff relies in each instance disclosed discriminatory action against persons of the colored race by carriers engaged in the transportation of passengers in interstate commerce. In some instances the carrier's action was taken in accordance with its own regulations, which were declared illegal as a violation of paragraph 1, section 3 of the Interstate Commerce Act, 49 U.S.C.A. section 3(1), which forbids a carrier to subject any person to undue or unreasonable prejudice or disadvantage in any respect, as in *Mitchell v. United States*, 313 U.S. 80, 61 S. Ct. 873, 85 L. Ed. 1201, and *Henderson v. United States*, 339 U.S. 816, 70 S. Ct. 843, 94 L. Ed. 1302. In other instances, the carrier's action was taken in accordance with a State statute or State custom requiring the segregation of the races by public carriers and was declared unlawful as creating an undue burden on interstate commerce in violation of the Commerce Clause of the Constitution, as in *Morgan v. Com. of Virginia*, 328 U.S. 373, 60 S. Ct. 1030, 90 L. Ed. 1317; *Williams v. Carolina Coach Co.*, D.C. Va., 111 F. Supp. 329, affirmed 4 Cir., 207 F. 2d 408; *Flemming v. S. O. Elec. & Gas Co.*, 4 Cir., 224 F. 2d 752; and *Chance v. Lambeth*, 4 Cir. 186 F. 2d 870.

"In every instance the conduct condemned was that of an organization directly engaged in interstate commerce and the line of authority would be persuasive in the determination of the present controversy if it could be said that the defendant restaurant was so engaged. We think, however, that the cases cited are not applicable because we do not find that a restaurant is engaged in interstate commerce merely because in the course of its business of furnishing accommodations to the general public it serves persons who are traveling from State to State. As an instrument of local commerce, the restaurant is not subject to the constitutional and statutory provisions discussed above and, thus, is at liberty to deal with such persons as it may select. Our conclusion is, therefore, that the judgment of the district court must be affirmed" (268 Fed. 2d 845). This principle was later restated and applied in the case of *Black v. Atlantic White Tower System, Inc.*, 181 F. Supp. 124 (D.C. Md. 1960), aff'd, 284 F. 2d 746 (O.A. 4th 1960).

That such matters as involved here are local rather than interstate in nature was established by the Supreme Court in *District of Columbia v. John R. Thompson Co.*, 346 U.S. 100, 113, 73 S. Ct. 1007 (1953), involving a prosecution against a restaurant in the District of Columbia for refusing to serve a Negro. The charge was laid under an act of the Legislative Assembly of the District. While the assembly had subsequently been abolished, the Supreme Court held that the acts in question were preserved under a saving clause enacted by Congress relating to "police regulations" and matters concerning "municipal affairs only." It was said:

"The laws which require equal service to all who eat in restaurants in the District are as local in character as laws regulating public health, schools, streets, and parks" (73 S. Ct. 1014).

In a recent Washington case, *O'Meara v. Washington State Board Against Discrimination*, 365 P. 2d 1, 6 Race Rel. L. R. 1109 (1961), a Washington statute banning discrimination in the sale of housing accommodations financed through public assistance was declared unconstitutional. A concurring judge declared:

"This constitutional right of the individual not to be dominated in his private affairs is predicated upon the theory that the greatest good for the greatest number can be best achieved by permitting the individual to choose his own course of action, conforming, of course, to the reciprocal rights of others.

"* * * In dealings between men, both cannot be free unless each acts voluntarily, otherwise one is subjected to the other's will." *Browning v. Slenderella Systems of Seattle*, 54 Wash. 2d 440, 341 P. 2d 859, 868.

"Until our Constitution is amended, we must forgo the benefits of regimentation with which other parts of the world are blest.

"Thus, a white man may exercise his constitutional right to choose his own course of action in his private affairs by making a voluntary sale of his home in an exclusive district to a Negro. Neighbors cannot disturb him in his private affairs by having him enjoined from doing so. So also, if a white man refuses to sell his home to a Negro, his constitutional right not to be disturbed in his private affairs shields him from coercion on the part of the Negro" (6 Race Rel. L. R. 1116).

In a prior case, *Browning v. Slenderella Systems of Seattle*, 54 Wash. 2d 440, 341 P. 2d 859, 4 Race Rel. L. R. 701 (1959), the Washington Supreme Court had considered a case involving an award of damages to a Negro woman under the Washington public accommodations statute for refusal to serve her in a beauty salon. While the question as to the constitutionality of this law was not before the court, a dissenting judge stated the proposition so clearly that I hasten to repeat it here, viz.

"All persons familiar with the rights of English-speaking peoples know that their liberty inheres in the scope of the individual's right to make uncoerced choices as to what he will think and say; to what religion he will adhere; what occupation he will choose; where, when, how, and for whom he will work, and generally to be free to make his own decisions and choose his courses of action in his private civil affairs. These constitutional rights of law-abiding citizens are the very essence of American liberties. For instance, they far outweigh in importance the fifth amendment to the U.S. Constitution which excuses criminals from giving evidence against themselves. It was, in fact, an afterthought. Our constitutional forefathers were chiefly concerned with the rights of honest men. They would have specified their rights with the same particularity that they did in regard to criminals if they had foreseen that courts would become unfamiliar with them.

"In a Saturday Evening Post article of April 4, 1959, page 32, entitled 'When a Negro Moves Next Door,' a Negro, who had bought a house in the white district of Ashburton in Baltimore, told the assembled neighbors:

"If you want to protect your home and your way of life * * * continue living in your own home. * * *

"Don't think you can escape the problem simply by putting your house up for sale and running away * * *. Even if you move far out in the suburbs * * * there will be Negroes living near you.

"As a matter of fact * * * if this area turns all Negro, I plan to move out to the suburbs with you."

"If he does make such a move, he will be discriminating against Negroes. This he has a right to do for discrimination is but another word for free choice. Indeed, he would not be free himself if he had no right so to do. In dealings between men, both cannot be free unless each acts voluntarily, otherwise one is subjected to the other's will." (4 Race Rel. L. R. 703.)

It is further submitted that the bill in question violates not only the fifth amendment, as depriving property owners of their property without due process of law, but likewise impinges upon the more delicate freedoms embraced within the first amendment. In *NAACP v. Alabama*, 357 U.S. 449 (1958), the NAACP had been adjudged in contempt by the Alabama courts for refusal to produce its membership lists for inspection by the State. The Supreme Court set aside this conviction as violative of the first amendment, made applicable to the States by the 14th. It was said:

"It is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the 'liberty' assured by the Due Process Clause of the 14th amendment, which embraces freedom of speech. . . . Of course, it is immaterial whether the beliefs sought to be advanced by association pertain to political, economic, religious or cultural matters, and state action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny" (357 U.S. 460).

This case is generally considered as recognizing a new first amendment right, freedom of association. It has received frequent application in subsequent cases. See *Shelton v. Tucker*, 304 U.S. 479 (1960); *Louisiana ex rel Gremillion v. N.A.A.C.P.*, 366 U.S. 293, 296 (1961); *Bates v. Little Rock*, 361 U.S. 516 (1960); *N.A.A.C.P. v. Button*, 9 L. Ed. 2d 405 (1963); *Gibson v. Florida Legislative Investigation Committee*, U.S. —, 31 L. Wk. 4311 (1962). Indeed, one leading scholar, Mr. Herbert Wechsler, professor of constitutional law at Columbia University, has maintained that upon analysis in the light of subsequent decisions, the *Brown* case itself is predicated upon a due process freedom of association rather than any application of the Equal Protection Clause. See Wechsler, "Toward Neutral Principles of Constitutional Law" 73 Harv. L.R. 1, 84 (1959). Stated differently, State-enforced segregation has been held illegal because it is beyond the power of the State to prohibit individuals from associating. So being, it must necessarily follow that Congress on like reasoning cannot compel individuals to associate. In the former case, the right is one against the State, to prevent it from interfering with a relationship assumed by individuals. The right obviously was not one by one individual against another individual. In the present context, can the right against the State be distorted into a right against another individual? Does the right of A to be free from State interference in his desire to associate with B carry with it the right in A to invoke the aid of the State in insisting that B associate with him, even against B's wishes? Is this freedom of association superior to freedom not to associate? If so, where does one right end and the other begin, or viewed in a different light, is not such an assumption a self-contradiction? Indeed, it would seem that if anything, the freedom not to associate is vastly more personal than freedom to associate, for the former manifests one of the most profound desires which man frequently insists that organized society insure him—the right to be "let alone."

Thus viewed, the question here transcends any consideration of property rights alone, and encroaches on even more sensitive, personal area of association.

Turning now to another objectionable feature of this bill, I would like to deal briefly with section 4, which not only defines the asserted "right" of persons to be free from discrimination with respect to the accommodations referred to in section 3, but also prohibits any "interference" or "coercion" with respect to such alleged rights.

The purpose of this innocent sounding language is quite clear, when viewed in the context of existing decisions. It obviously is designed to deny to the majority the very freedom of expression and action which minority groups are now asserting so vigorously, and being complimented by both the President and the Attorney General for doing it. Principal weapons in the present struggle by the so-called civil rights organizations are boycotts, picketing, and other forms of economic coercion. Yet should section 4 become law, it would purport to deny to white persons these very same rights. For example, language less explicit as to coercion in former 42 U.S.C.A. 1971 was held in *United States v. Beatty*, 288 F. 2d 653 (O.A. 6th 1961), to authorize a restraining order enjoining Tennessee landowners from evicting or refusing to renew contracts with Negro sharecropper-tenants as a means of discouraging them from voting, notwithstanding that under State law there was nothing to prohibit such action. Applied to the present situation, it would result that a Negro could legally boycott and picket a store for its refusal to serve him at its lunch counter, whereas,

if a white person refused to enter in some business relationship with a Negro because of his insistence in eating at a predominantly white restaurant, he could be laid by the heels in an injunction suit.

Lastly, under section 5, not only may such injunction suits be instituted by the individually affected, but also by the Attorney General as well.

Gentlemen, this is too much power to give any one man. It is a power peculiarly capable of abuse, and vesting it in such a political office as Attorney General of the United States does not help matters. What is to prevent an unscrupulous Attorney General from telling the Governor of a State "If you don't support my nomination for Presidency at the next convention, I will file 100 of these public accommodations suits in your State"?

Senator THURMOND. I should like to insert a statement by T. W. Bruton, attorney general of the State of North Carolina.

Senator PASTORE. Without objection it is so ordered.
(Document follows:)

STATEMENT OF T. W. BRUTON, ATTORNEY GENERAL OF NORTH CAROLINA

This statement relates to S. 1732 now pending before the Senate Committee on Commerce.

In the first place, it is admitted that people move from one State to another and that goods, appliances, and food are shipped from one State to another. Therefore, if this fact is sufficient within itself to support Federal regulations of local businesses, then all businesses and occupations are subject to the control of the Federal Government and there is no longer any field left to the States. The lawyer whose books and office supplies came to him by means of interstate commerce and, likewise, the doctor, dentist, and all professions with drugs and implements that arrive at the office by means of interstate commerce, will be subject to Federal control. Although the bill relates to places of public accommodations, primarily, it also applies to "any other establishment where goods, services, facilities, privileges, advantages, or accommodations are held out to the public for sale, use, rent, or hire * * *." Therefore, the bill is susceptible of the construction that it places under Federal control all businesses and professional services of any nature carried on in a State. The provisions of section 8(b) of the bill virtually destroy the activities of private clubs. The bill grants the sweeping power to the Attorney General of the United States to maintain proceedings against all citizens and businesses in any State virtually at his discretion, and, therefore, with the investigation procedures available to the Attorney General, converts this Nation into a police state.

The bill destroys and socializes private property and the right to use, own, enjoy, and dispose of property. The bill makes all businesses affected with a public interest or public service, and while it purports to confine itself to businesses and services, there is no logical reason why, in the future, it should not be extended to the home and destroy this last retreat of an individual simply because such individual's wife has a bottle of perfume on her dressing table that was transported in interstate commerce. Another logical step that will be taken in the future if the logic of this bill is pursued to its limits, will be the fixing of prices by the Government, the fees charged for professional services with enforcement by a Federal gestapo and we will then have come full circle and have a socialistic nation. The States will have disappeared and we will no longer have Senators and Congressmen.

The price offered by the minority group concerned is that they will deliver their votes to those who favor their requests. Those who are promoting this bill should know that this minority group will not be satisfied by obtaining the privileges sought to be conferred by this bill. Having learned that preferential treatment can be obtained by pressing these buttons or levers, they will continue to make more and more demands by the use of the same tactics and devices. Once this road is embarked upon, there will be no end to the pressures and requests for more and more privileges and preferential treatment.

We desire to strongly protest against this sweeping bill which destroys all individualism, all privacy and, in the end, will lead to the destruction of the rights of all people both colored and white.

Senator THURMOND. A few days ago I believe the distinguished Senator from New Hampshire, Mr. Cotton, was raising a question about voting rights, and I received a letter today from a State senator

in South Carolina by the name of James P. Harrelson, from Colleton County, in which he has written a letter to the editor of the State newspaper, which is the largest newspaper in South Carolina, showing that Negroes are allowed to vote there just as free as white people are. It shows how the figures given in the Congressional Record for the number of Negroes in that county is listed as—as voters—is listed as being 359; whereas today the figure is not that figure, but 1,200.

If there is no objection, I would like for this letter to go into the record.

Senator PASTORE. Without objection it is so ordered.

(Document follows:)

THE SENATE,
STATE OF SOUTH CAROLINA,
Walterboro, July 30, 1963.

EDITOR,
The State Newspaper,
Columbia, S.C.

DEAR SIR: I noticed an article in Sunday's paper regarding 26 counties in South Carolina, which, according to the Congressional Quarterly, were in danger of voter registration investigations, stating that Colleton County had only 359 registered Negroes. I beg to advise that this information is incorrect, as much information used against the South usually is more of misinformation than information. As of May 15, 1962, the records of our Colleton County office will show 1,080 Negroes registered to vote and as of today, the figure is approximately 1,200.

I think that you will further find that there is no greater difficulty in getting registered in this county by one race than another.

Very truly yours,

JAS. P. HARRELSON.

Senator THURMOND. That is all.

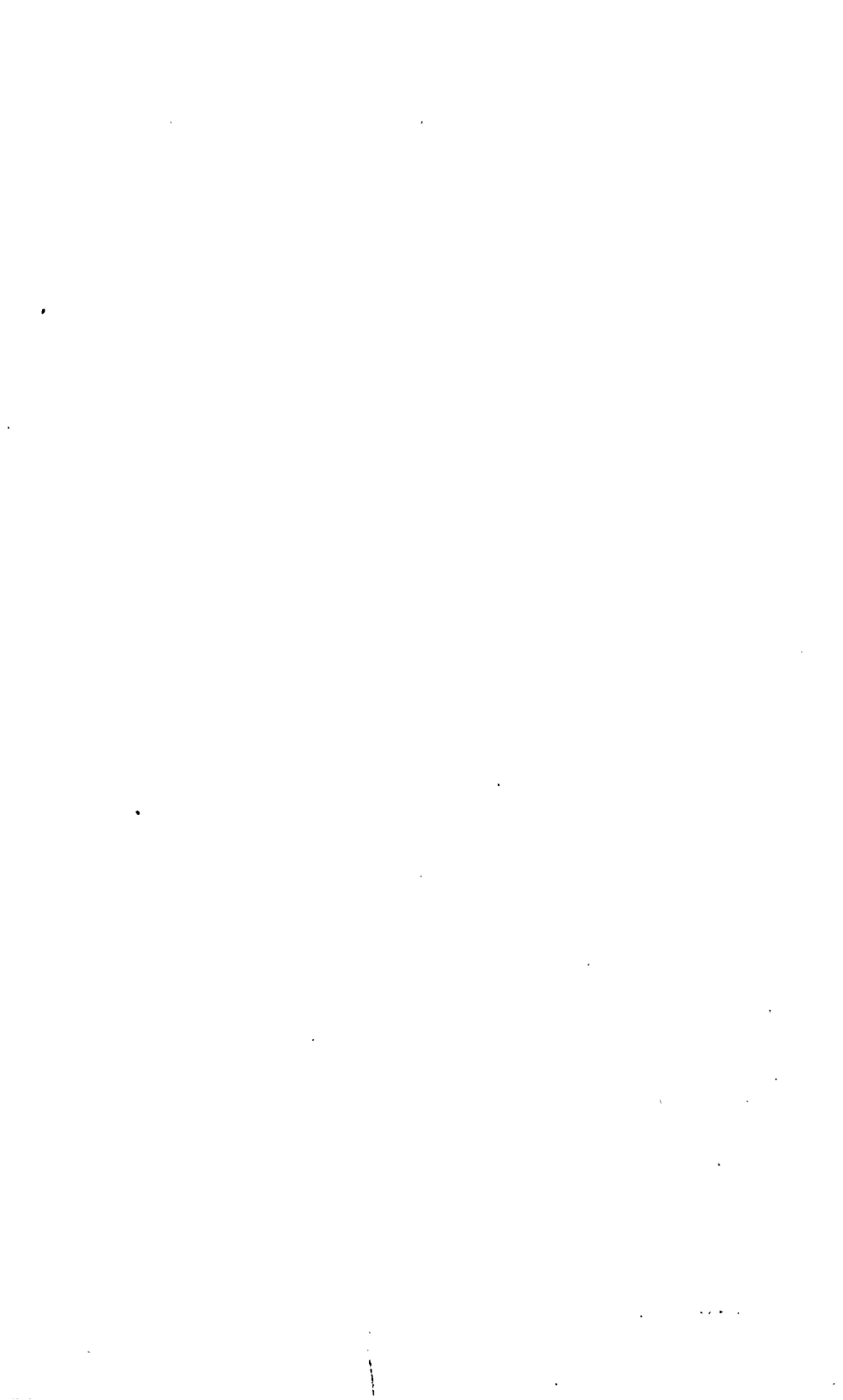
Senator PASTORE. Is there anyone else in this room that wants to testify on this cause?

The Chair hears none.

We will recess until 9:15 tomorrow morning.

I should like to make this announcement, however, that tomorrow we will expect to have two persons, including the Honorable Karl Rolvaag, Governor of Minnesota, and another attorney from New York. After they have testified the hearings will come to a close. The record will remain open until 5 o'clock next Tuesday for anyone who desires to submit any statements. That will be August 6, at 5 o'clock. And thereafter the committee will go into executive session, and I would hope that by that time we will be fortunate to have with us the honorable chairman of this committee, Mr. Warren G. Magnuson, who has fully recovered, and who will return to his duties very soon.

(Whereupon, at 11:40 a.m., the committee was recessed, to reconvene at 9:15 a.m., August 2, 1963.)



CIVIL RIGHTS—PUBLIC ACCOMMODATIONS

FRIDAY, AUGUST 2, 1963

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met, pursuant to recess, at 9:25 a.m., in room 5110, New Senate Office Building, the Honorable John O. Pastore presiding.

Senator PASTORE. We are honored this morning to have with us as a witness his Excellency Karl F. Rolvaag, who will be introduced by a distinguished colleague, Mr. Eugene McCarthy.

Senator MCCARTHY. Mr. Chairman and members of the committee, it is a privilege for me to introduce to this committee the Governor of the State of Minnesota, Karl Rolvaag. The Governor has had a long experience in the State government of Minnesota, he is Governor now and before that, for some 6 years, as Lieutenant Governor and before that, as a man who was interested indirectly participating in government and civic activities.

Our State has a record of administering a public accommodations law that goes back to the year 1885 and a fair employment practice law at the State level and also several at the level of city government in our large cities.

I commend to this committee the Governor of our State and testimony which he will make in this vital area of civil rights.

Governor Rolvaag.

Senator PASTORE. Thank you very much, Senator McCarthy.

All right, Governor, you may proceed in any way you like.

STATEMENT OF HON. KARL F. ROLVAAG, GOVERNOR OF MINNESOTA; ACCOMPANIED BY JOSEPH P. SUMMERS, SPECIAL ASSISTANT TO ATTORNEY GENERAL OF MINNESOTA; JOSEPH SCISLOWICS, PRESS SECRETARY TO GOVERNOR OF MINNESOTA; AND STEPHEN T. QUIGLEY, COMMISSIONER OF ADMINISTRATION OF THE STATE OF MINNESOTA

Governor ROLVAAG. Mr. Chairman, members of the committee, as Governor of Minnesota, I strongly urge the passage of the public accommodations bill, S. 1732. I believe that President Kennedy has wisely emphasized that the States, local communities, and individual citizens have a large measure of the responsibility for providing equal rights for all citizens. Nevertheless, the intensity of the present drive for racial equality makes it obvious that new Federal action is also necessary. No thoughtful American today can conclude otherwise.

THE ISSUE

The principles of civil liberty, equal opportunity, and equal protection under the law are part of our national heritage. Putting these principles into practice has been a continuous challenge to all levels of government and to society. This challenge continues to be unmet, and may well be the most critical social and moral issue of our time. Two centuries after the Declaration of Independence, the American dream of equality of opportunity remains for millions of my fellow citizens an illusion.

It is bitterly ironic that at this stage of our Nation's history it is necessary for Congress to maintain a Commission on Civil Rights; for courts to be called upon to enforce a citizen's right to vote, or to go to school; or for legislation to be necessary to secure for our citizens their unalienable rights as Americans. Our duty to secure the rights of all men requires that we give to the problem of racial discrimination our earnest thought and most vigorous action. Racial and religious discrimination sometimes results in the denial of constitutional rights and more often it manifests itself in a basic disregard for human decency and human dignity.

DISCRIMINATION WIDESPREAD

If we Americans are to be perfectly honest with ourselves, and I am certain that we all want to be honest, that we have to be honest, we must admit that discrimination is not limited to our larger cities. It is not restricted to the Southland; it is not confined merely to narrow, or widely scattered pockets within our Nation.

I would be the first to admit to the difficulties that Negroes and other members of minority groups have in securing housing, suitable employment, and equal educational opportunities in Minnesota. I know that these same difficulties exist throughout our Nation, North and South alike, and I know that it will not help these citizens obtain their rights if we merely engage in a dialogue among ourselves about what is "right" about what is "proper" or about what is "feasible." There isn't a person in America who, deep in his heart, doesn't know right from wrong on the issue of equality. We all know that discrimination exists. We all know that it will end, indeed it must end.

The promotion of racial justice and religious freedom has been the policy in Minnesota throughout its 105 years of statehood. During this period, under both Democratic and Republican administrations, many steps have been taken to protect the rights and improve the opportunities of our citizens. Generally speaking, Minnesota today has the best body of law and the best record of executive action against discrimination of any State in the Nation.

In the 4 months since I became Governor, I have taken steps to keep Minnesota where the overwhelming majority of her citizens want her to be, in the forward ranks in the fight for equal opportunity. I have issued an executive order requiring cancellation of State contracts with employers who discriminate. I have directly urged several hundred representatives of local government in our State to apply this same procedure, under a never-before-used law, to their own local public contracts. In the last session of our State legislature, I did support and we now have, a special commission on Indian affairs. Currently,

I am in the process of naming a labor-industry committee which will work to find better opportunity for employment and increased opportunity for members of minority groups.

In short, gentlemen, it is the policy of our State to protect and expand opportunity for all of our people. I believe that we have done much, but I know as well that we have not done enough. We can, we must, and we will do more.

Public accommodations legislation is familiar to us in Minnesota. We have been living under a statute similar to S. 1732 for 78 years. In more recent years our State has adopted laws requiring fair housing and employment practices, and prohibiting discrimination in public employment and job promotion. Our fair housing law was drafted and sponsored by a Democratic State senator and received strong support from the then Republican Governor.

Our public accommodations law prohibits exclusion on account of race, color, national origin, or religion of any person from the full and equal enjoyment of—

public conveyances, theaters, or other public places of amusement, or by hotels, barbershops, saloons, restaurants, or other places of refreshments, entertainment, or accommodations."

Segregation by retail stores, which would also be forbidden by S. 1732, has to my knowledge never been a problem in Minnesota. Our law provides for both civil and criminal remedies. An aggrieved person may receive \$500 damages in a civil suit. In addition, one who violates the statute is guilty of a gross misdemeanor. To insure that every visitor to our State is informed of his rights under this law, we print it on every copy of our official State roadmap. I have a copy here of the map and in one corner of the map is the short synopsis of the public accommodations law in Minnesota. Hundreds of thousands of these maps are distributed each year at State expense.

An example of the workings of this law in our State occurred in September 1962. A Negro father, his wife, and three children, made reservations at one of our northern Minnesota resorts. The reservations were confirmed in advance. Upon arriving at the resort, this family, tired and hungry from their long journey, was denied accommodations. The resort owner and his wife were arrested and tried on a criminal charge in a district court. Upon pleading guilty, they received a suspended jail sentence and paid a heavy fine. In addition, the defendants settled, for several hundred dollars, a civil action filed by the Negro family because they had been denied their basic human rights.

I admit that cases of this nature under our public accommodations statute are rare. However, I suspect that with Federal legislation they will become more frequent as local officials receive added pressure to perform their duty and enforce the law of the land.

I firmly believe there is an urgent need for a Federal public accommodations law to complement and uniformly strengthen State statutes. Such a law would serve to emphasize and dramatize on a national level the public policy which prohibits discrimination not only in public accommodations, but in every aspect of life. The bill currently being studied by this committee will, if enacted, provide only the minimum assurances of justice and human dignity. S. 1732 is no departure from traditional concepts of American justice and fairplay.

It has been said that this bill will interfere with "property rights." This is a curious inversion indeed of our legal tradition. For if racial discrimination is to be considered a "property right" it is certainly a novel departure from common law. Traditionally, innkeepers as well as persons engaged in many other public callings, undertake a duty to serve all well-behaved members of the public who are able to pay for their services, so long as they have facilities available.

As early as 1460, over 300 years before our Constitution was adopted, it was the received tradition of the common law that an innkeeper who violated his obligation to serve the whole public could be sued for his injustice.

In 1701, Lord Chief Justice Holt of England could say, simply, that—

if an innkeeper refuse to entertain a guest when his house is not full, an action will lie against him * * * He has made profession of a trade which is for the public goods, and has thereby exposed and vested an interest in himself in all the King's subjects that will employ him in the way of his trade.

In 1906, Professor Beale of Harvard, in his treatise on innkeepers and hotels, could find scant legal authority for any "property right" to discriminate among members of the public.

Finally, in almost two-thirds of our States, including my own, such a supposed property right, if indeed it ever existed, has long since been abolished by public accommodations statutes.

In any event, all property is held subject to the demands of the public welfare and the common good. This is a fundamental principle of republican government. I suggest that those who cry "interference with property rights" consider who are the "radicals" here. The ancient common law never recognized any property right of hotel-keepers and similar persons following public callings to discriminate; a public accommodations law, therefore, is no radical innovation. It merely restores vigor to a legal concept which antedates this Nation by as much as three centuries, but which has been allowed to lapse temporarily by some persons responsive to improper social pressures than to legal tradition.

There is no way to tell how long the present racial crisis will last, nor how it will eventually be resolved. But one thing is becoming more and more clear: Unless those of us at all levels of government provide constructive and intelligent leadership in sustaining the rights of all citizens, this time of agony for our Nation will leave scars which will not heal for generations.

Is Federal legislation necessary? I think the question is answered as soon as it is asked. Who among us has not noticed the pitiful spectacles which have resulted from the willful obstruction of the drive for freedom by local and State officials in some areas of our Nation?

Public officials who should have led the way to a peaceful and just accommodation of social conflict have instead placed themselves at the head, and thereby at the mercy, of the forces of bigotry and injustice. It is a sad, but nevertheless true, commentary on our society that in many instances, in the North as well as the South, we cannot count on local and State officials to implement the national policy, notwithstanding their oaths of office.

Times change and we cannot move with them merely on the force of public statements. If we are to promote justice in our society and

carry out our sworn duties as public officials, we must provide leadership and action in the crusade for equality. Our conscience will no longer permit us the luxury of simply reacting piecemeal to inflammations and pressures as they arise. As servants of the people, we know that the moral law, and our rich love of liberty, argue against procrastination.

Gentlemen, the challenge to act against racial injustice is genuine and immediate and cannot be met with speeches. We can help to meet this challenge through passage of the public accommodations bill and in so doing we will fulfill our public trust. If we fail, we betray not only our duty as responsible representatives of law and order, of peace and freedom, but we will contribute to the decline of a great heritage begun by men with a burning desire for liberty and justice for all.

Thank you.

Senator PASTORE. Thank you very much, Governor, for an excellent statement and the best characterization I can give it is that it is like a breath of fresh air.

Governor ROLVAAG. Thank you.

Senator PASTORE. Governor, you have many tourists in the State of Minnesota, have you not?

Governor ROLVAAG. That is correct, sir.

Senator PASTORE. How long have you had this public accommodations law on your statute books?

Governor ROLVAAG. Our public accommodations law first was enacted by the Minnesota Legislature in 1885.

Senator PASTORE. So you have had a long experience with the accommodation of people of dark skin?

Governor ROLVAAG. Yes, sir; for 78 years.

Senator PASTORE. You say that any tourist can come to your State, make reservations in advance, and be accommodated once he arrives there?

Governor ROLVAAG. That is correct, sir.

Senator PASTORE. And if he is denied that right serious consequences are meted out to the person who denies that right under law?

Governor ROLVAAG. That is correct, sir.

Senator PASTORE. How does it work? Have the people accommodated to it?

Governor ROLVAAG. The people have accommodated to it very well. I can't name the number of instances of court action that we have had as a result of it. I mentioned the one in my prepared statement that took place in September of 1962.

We have made our public accommodations law and the actions known throughout the country. And, as I pointed out, put this on the face of every roadmap that is published by the State of Minnesota, by our highway department:

Minnesota provides full and equal enjoyment of all places of public accommodation and amusement under statute 327.09 to all persons of every race, religion, and national origin.

It is well-known. We have had no problems with the general public acceptance. It has caused no problems as far as our tourist industry is concerned. It is thriving. It is healthy. And we feel it is a good public act.

Senator PASTORE. Would you be in a position this morning to give us a figure on what your gross is on tourism in your State?

Governor ROLVAAG. We estimate that the total average annual income to Minnesota in terms of dollars is \$350 million.

Senator PASTORE. \$350 million. Has it increased over the years?

Governor ROLVAAG. Yes, sir. Our tourist business this year is 100 percent up over what it was last year in most areas of our State.

Senator PASTORE. While this acceleration has been going on, was this accommodation law in effect and being applied?

Governor ROLVAAG. Yes, sir.

Senator PASTORE. Being enforced?

Governor ROLVAAG. Yes, sir.

Senator PASTORE. Being observed?

Governor ROLVAAG. Yes, sir.

Senator PASTORE. Senator Monroney?

Senator MONRONEY. Governor, I want to join Chairman Pastore in complimenting you on a most effective, clear, and moving statement on this very important problem that we have before us.

While I agree completely with the need and desirability of legislation, I am wondering about the authority of the Constitution on which this legislation of achieving very desirable ends can rest. The bills provide that it rests on the 14th amendment and on the commerce clause, but largely on the commerce clause; this being the only practical authority other than the general rights of all citizens expressed in the 14th amendment to enact such a law as this.

Being a Governor of a sovereign State, and, I know, jealous of the State's powers to conduct its normal local affairs and preserve the rights that are inherent to a State, I wondered if you had any comment on the use of the commerce clause to justify Federal legislation for the first time in this field?

Governor ROLVAAG. Well, Senator, constitutional lawyers that I have consulted feel that while a bill based on the 14th amendment might ultimately prevail against the decisions of the 1883 *Civil Rights Cases*, such a bill would not be as direct and effective a means to sweep away unconstitutional State action and immoral private discrimination as would a bill based upon the unchallenged power of the Commerce Clauses.

This is so for two reasons: one, the present bill avoids creating unnecessary doubts about the constitutionality of the legislation; and, two, basing the law on interstate commerce supplies a much more rational and easily applied test of coverage.

A bill based on the 14th amendment would rely for its coverage upon whether or not a given public facility was licensed by the State in which it is located.

The bill before us is clear and effective. To oppose it on the ground that it should be based on a different clause in the Constitution seems to me is another way to insure that no action will be taken whatsoever.

Senator MONRONEY. I have searched out and listened to many of the witnesses supporting the bill, including the Justice Department. Most of the authorities cited for the use of the commerce clause in this area are of very recent origin, such as the Wage and Hour Act. The appliance of the commerce clause to purely intrastate activities and, in many other cases, to very recent activities is something comparatively new. In fact, the commerce clause was not even discussed

in the *Civil Rights Cases* as a possibility of Federal power in the decision of 1883. This is an indication that at that time the commerce clause was not supposed to apply to anything that was not truly in regard to movement of commerce between the several States and the Indian tribes or foreign governments.

Do you have any Supreme Court decisions at hand that would indicate that interstate commerce applies to purely local matters such as innkeeping or matters of that kind?

Governor ROLVAAG. Senator, I am not a lawyer, much less a constitutional lawyer.

Senator MONRONEY. Neither am I, so that perhaps is why I have doubts as to the authority for Federal action.

Governor ROLVAAG. I did refer to Chief Justice Holt's statement in 1460 from Great Britain and common laws supports it.

Senator MONRONEY. It would, I am sure, in the case of State action. I have no question whatever on States' rights to move in policing powers and passing laws that they need; but Federal powers are limited to the commerce clause in most cases.

Governor ROLVAAG. Mr. Justice Bradley, the author of the opinion of 1883, noted, and I quote:

Of course these remarks do not apply to those cases in which Congress is clothed with direct and plenary powers of legislation over the whole subject, accompanied with express or implied denial of such power to the States in the regulation of commerce among the several States. In these cases Congress has power to pass laws for regulating and subject specified in every detail and the conduct and transactions of individuals in respect thereof.

Senator MONRONEY. Justice Bradley did set aside the law in that case, which is very similar to this, even though he had taken into consideration the commerce clause.

I mean this very same law, or a law very similar to it, was held unconstitutional.

Governor ROLVAAG. I'm sorry, Senator, I am not a lawyer.

Senator MONRONEY. It would seem to me that while I have no doubt that we can move with great freedom and with great powers in the field of interstate commerce, that we have moved in that field, I am proud to say, in airports, railroads, bus terminals, transportation, and facilities that are clearly related in interstate commerce.

It is a question of how far this clause could go. There are some who have suggested maybe the best way to accomplish the goals of this bill would be to move in the field which we know we already have the power under the interstate commerce clause and then perhaps to consider a constitutional amendment that would empower the Federal Government to insist that all American citizens have equal rights and equal protection in the enjoyment of these rights in accommodations such as this bill presently applies to.

Governor ROLVAAG. Senator, I can only comment that, again, I am not a lawyer. But I would be perfectly willing to take my chances on my knowledge of legislation on the commerce clause and leave it up to the Supreme Court for a decision.

I think we ought to go as far as humanly possible, recognizing the differences of opinion in a country and a Nation as vast as ours, to secure that every individual has his full and maximum rights.

Senator Monroney. Thank you very much. And I do appreciate the very fine statement that you have come to Washington to give the committee.

Senator Cotton?

Senator COTTON. Governor, I join in bidding you welcome to the committee. It is always a privilege to have a Governor of a great State appear before us.

Naturally I am most interested in what you had to tell us about the experience of your resort industry in connection with this problem. I represent the State of New Hampshire. Our mountains and lakes are only very, very slightly more beautiful than those of the great State of Minnesota. [Laughter.]

Governor ROLVAAG. That might be a matter of debate, sir.

Senator COTTON. I wondered: You have long had this law on your statute books against discrimination, as you have just testified to the acting chairman of the committee. How long has it been actively enforced?

Governor ROLVAAG. It has been actively enforced since the day the law was enacted by the legislature. The law was passed in 1885.

I again must confess I can't cite the number of cases that have gone through court action as a result of it. The one case I mentioned went as far back as September 1962.

But I must confess that I have a cottage on a lake some 200 miles north of our capital, St. Paul. On that lake there is a small resort with five cabins. It is clean and well attended, and he does a thriving business. And very often there are groups there including members of minority groups. It doesn't seem to affect his business in any way.

And, of course, there are many areas where we have noncompliance. But they have not made any protests.

Senator COTTON. I was interested in that, because so far as I have been able to find out—and I have no doubt such instances have occurred—so far as I have been able to ascertain, I can't learn of any specific instances in which colored people have been refused accommodations in my State.

I say I presume they have been. But I doubt if they ever are in the regular hotels and motels. There may have been certain times in our resort institutions.

We now have a recent statute, a State statute.

What I was curious about, and one question I wanted to ask you as the Governor of a State that has had practical experience in this situation: Have you had occasion to note whether any of your resort institutions have resorted to the expedient, which I have understood is practiced in some places, of selling for a dollar a year, to the guests they desire, a club membership, and trying to avoid coverage as a private club; or the refusal to make reservations in advance and the time-honored resort of saying, "There is no space available"? Have these two elements been resorted to, so far as you know, in the experience of your own resort industry?

Governor ROLVAAG. As regards the club membership principle, there are a few that have adopted that principle. But it is not one for screening out guests, but, rather, because of the peculiarities of our liquor laws in Minnesota.

Senator COTTON. Oh, you have a liquor problem there, too? [Laughter.]

Governor ROLVAAG. We have lots of problems. We don't have a lottery problem in Minnesota. [Laughter.]

Senator COTTON. Touché.

Governor ROLVAAG. The other part of your question, sir, was advance registrations?

Senator COTTON. The matter of not accepting advance reservations from new guests, and then saying, "It is all full."

Governor ROLVAAG. No, sir. As a matter of fact, the resort industry, the resort business is of such a risky nature, dependent upon weather, dependent upon the economy of the summer ahead, that it is a policy in our resort industry that they just take every reservation they possibly can. It is a matter of good business.

Senator COTTON. So that your conclusion would be from such information as you have—and you aren't expected to know everything that happens in your State, regardless of the fact that you are Governor—that there has been no damage as a result of the enforcement of your antidiscrimination laws to drive the situation underground in the sense of methods of evasion?

Governor ROLVAAG. I am sure that there are areas where this does occur. It must occur. After all, it is made up of human beings. We recognize that.

More attention has been given to this matter in the last 10 years, of course, with the increasing national attention. And so there is more attention to it now. But, again, I want to reiterate: It has created no problems, generally speaking, in our resort industry at all.

Senator COTTON. I am still much interested in Minnesota's experience, sincerely interested, being from a similar State. I was curious to know whether in Minnesota you have had occasion to make arrests or prosecutions in so-called tourist homes in the matter of antidiscrimination?

Governor ROLVAAG. No, sir.

You are talking about the family home?

Senator COTTON. I am talking about the private home that hangs a sign out. I assume you have them, as we do.

Governor ROLVAAG. Yes, sir. They are gradually going out of the picture with the development of the motel industry. But there has been no problem whatsoever in our tourist homes.

I was curious about this matter of, well, call it Mrs. Murphy if you want to, a person who hangs out a sign to take overnight guests. Have you had any difficulties at all?

Governor ROLVAAG. No, sir. We have had no difficulties whatsoever.

Senator COTTON. Thank you, Governor.

Thank you, Mr. Chairman.

Senator MONRONEY (presiding). Senator Thurmond?

Senator THURMOND. Thank you, Mr. Chairman.

Governor, we are delighted to have you with us.

Governor ROLVAAG. Thank you, sir.

Senator THURMOND. My position, of course, is different on this matter.

Governor ROLVAAG. I understand this, sir.

Senator THURMOND. I observe from your statement that you have had a law similar to the proposed legislation here, S. 1732, for 78 years?

Governor ROLVAAG. That is correct, sir.

Senator THURMOND. That would take it back to about 1885.

I also observe from your statement, on page 2, that you say:

I would be the first to admit to the difficulties that Negroes and other members of minority groups have in securing housing, suitable employment, and equal educational opportunities in Minnesota.

After 78 years the Negroes are still having trouble securing those equal opportunities, although you have a law similar to the one that is suggested.

Governor ROLVAAG. That is correct, sir.

Senator THURMOND. Is that due to a lack of enforcement of the law, or—

Governor ROLVAAG. It is because Minnesota is made up of human beings. And there has been discrimination in Minnesota. I must admit to it, confess to it, Senator.

However, we have made some strides. We have passed in the last 6 years, I believe it is, an open occupancy bill in the State legislature providing that there shall be no discrimination in the purchase of a home because of race, color, or creed.

There are economic problems where there is some segregation because of the low income of the minority groups, because they have had less opportunities for education. We have a long body of civil rights legislation in Minnesota covering a whole host of areas that I could enumerate if the committee chooses.

Now we are making strides, Senator, and we hope that we can do better in Minnesota.

Senator THURMOND. So Minnesota's law, which has been in existence for 78 years, and is similar to the one proposed here, has not remedied the situation after 78 years?

Governor ROLVAAG. It has helped a great deal. The law is only the beginning.

Senator THURMOND. Why do you think this Federal law would help more than the law you now have?

Governor ROLVAAG. It wouldn't help in Minnesota, but I am the Governor—

Senator THURMOND. Therefore you are advocating this for other parts of the country?

Governor ROLVAAG. I am the Governor of a State, Senator. My people travel a great deal over the country and my people deserve the same rights in other areas of the country as they do in Minnesota, for business purposes and recreation purposes alike.

Senator THURMOND. You don't need it for Minnesota, and you have been unable to get results under your own law in Minnesota; but yet you want to force the Federal Government to pass a law for the whole Nation that would be questionable?

Governor ROLVAAG. Excuse me, sir. I would not suggest that we have not made strides in Minnesota under this law. I think we have been successful. I don't think we have been as successful as we should have been. But I know that we will be more successful in the future.

Senator THURMOND. You say, though, that you would be the first to admit to the difficulties that Negroes and other members of minority groups have today in securing housing, suitable employment, and equal educational opportunities. Those conditions, from your statement, still exist today in spite of the fact that you have a law similar to one being proposed here, and have had it for 78 years.

Governor ROLVAAG. The public accommodations law in Minnesota does not guarantee equal education, it does not guarantee equal job opportunities, it does not guarantee all economic opportunities; it does guarantee public accommodations, and in that area we have been successful. And every law ever designated or enacted by any legislative assembly has been broken from time to time.

Senator THURMOND. So you feel that your law in Minnesota is working?

Governor ROLVAAG. Yes, sir.

Senator THURMOND. Although these inequities still exist?

Governor ROLVAAG. Yes, sir.

Senator THURMOND. And you don't need any law from the Federal Government's standpoint then for Minnesota.

So what you are advocating then is a Federal law that will apply to other States chiefly?

Governor ROLVAAG. That is correct, sir. It will apply to other peoples.

Senator THURMOND. I want to ask you how many Negroes do you have in your State? What percent of your population are Negroes?

Governor ROLVAAG. Our nonwhite population in Minnesota is about 42,000 or 43,000. We have a total population of about 3.4 million. The nonwhites are divided, I think, approximately evenly between the Indians and the Negroes.

Senator THURMOND. How many Negroes do you have in your State?

Governor ROLVAAG. Approximately 20,000 to 25,000.

Senator THURMOND. What percent of your total population is that?

Governor ROLVAAG. 25,000 over 3.4 million—

Senator HART. Seven-tenths of 1 percent.

Governor ROLVAAG. Seven-tenths of 1 percent.

Senator THURMOND. Less than 1 percent.

Governor ROLVAAG. That is correct.

Senator THURMOND. You have been at the Governors' conferences, you have talked—

Governor ROLVAAG. One. I have been to one.

Senator THURMOND (continuing). With Governors from other parts of the Nation. And, as you know, the problems in different sections in the country are different. I am sure you know that.

Governor ROLVAAG. Yes, sir.

Senator THURMOND. Having 0.7 percent—which is less than 1 percent—of Negroes, your problem would be quite different from those in sections where you have 25, 35, 50, 70 percent Negroes, would it not? And one school district in my State, for instance, has 90 percent Negro children. You are bound to recognize that would make a difference in the problem, wouldn't you?

Governor ROLVAAG. Senator, I attended high school in Biloxi, Miss. I know something of the problem.

We, too, have schools in Minnesota—we have a grade school in Minneapolis which is about 85 percent Negro pupils. The population that we have totally is not large, but they are concentrated in Minneapolis and St. Paul, and—

Senator THURMOND. The Negroes you have are concentrated in two places?

Governor ROLVAAG. Principally in two places, in the two bigger cities.

Senator THURMOND. So you do not have the problem, then, over the State as a whole; just in two places, to deal with?

Governor ROLVAAG. Principally, yes.

Now we also have a substantial Indian population that is principally, again, principally rural.

Senator THURMOND. It makes a big difference when you have less than 1 percent—

Governor ROLVAAG. I understand.

Senator THURMOND (continuing). Or have 40 or 50 percent.

Governor ROLVAAG. I see your point.

But equality, I might say, Senator, is not posed in terms of numbers or percentages.

Senator THURMOND. But it would make a difference, wouldn't it, from a practical standpoint in dealing with the problem?

Governor ROLVAAG. I concur in your point.

Senator THURMOND. Governor, I notice on page 4 of your statement:

Traditionally, innkeepers as well as persons engaged in many other public callings, undertake a duty to serve all well-behaved members of the public who are able to pay for their services, so long as they have facilities available.

Then you state:

As early as 1460—over 300 years before our Constitution was adopted—it was the received tradition of the common law that an innkeeper who violated his obligation to serve the whole public could be sued for his injustice.

You are going on the basis there that the common law ought to prevail in those matters?

Governor ROLVAAG. This is older than common law and tradition, Senator.

Senator THURMOND. You of course know that there is no such thing as a Federal common law.

Governor ROLVAAG. I understand that, sir.

Senator THURMOND. You not being a lawyer, I didn't know whether you knew that or not.

So far as the States are concerned, the sovereign States which have all of the powers except those they have delegated to the Union by the Constitution and amendments adopted since then face a different thing.

But you know there is no such thing as a Federal common law. So your statements you are making here might be applicable to a State considering the passage of such legislation, but would not be applicable before the Congress considering such legislation, would it not?

Governor ROLVAAG. I cited in the statement the opinion of the Lord Chief Justice Holt in 1460, because I think it holds true as an expression of what is proper and what is just and what is the basis of our law in Minnesota.

Senator THURMOND. And—

Governor ROLVAAG. I would like to see my traveling Minnesotans, those engaged in business and those engaged in seeking recreation, to enjoy the same privileges in other areas of this great Nation as they do in Minnesota.

Senator THURMOND. But that would have to be where the common law would be applicable, because that is a point you made here, about

the common law, that an innkeeper would take him because of the common law; and that would not be applicable here before the Congress.

Now, Governor, you are familiar with the fact that this proposed legislation is hinged on two provisions of the Constitution, one being the 14th amendment. I presume you are also familiar with the fact that a similar statute was passed by Congress in 1875 to the one we are considering now. And in 1883 the Supreme Court of the United States held such statute unconstitutional, being based on the 14th amendment.

Are you familiar with that?

Governor ROLVAAG. Yes, sir.

Senator THURMOND. So, therefore, do you feel the Supreme Court today ought to reverse itself, if the Congress should base the statute today on the 14th amendment, or do you feel that the Supreme Court would hold as it did then, and follow *stare decisis*?

Governor ROLVAAG. My understanding is, sir, under the provisions of S. 1732, the Supreme Court would not need to reverse itself.

Senator THURMOND. It would have to reverse itself—

Governor ROLVAAG. The bill being based on the commerce clause and not on the 14th amendment.

Senator THURMOND. I am coming to that in a minute.

But this legislation is based on both. It is hinged on the 14th amendment and the commerce clause.

So from the standpoint of the 14th amendment you would have to admit that it would have to reverse itself if it held this legislation constitutional.

And then we will come to the commerce clause. And that is the main provision I presume you are relying on.

Governor ROLVAAG. I am not skilled enough in the intricacies of constitutional law, Senator, to engage in any debate on this matter with you. I have some citations from Justice Bradley's opinion, but I am not privileged to have that body of knowledge, sir.

Senator THURMOND. Now, Governor, the other position on which this legislation is based is the commerce clause.

Governor ROLVAAG. Correct.

Senator THURMOND. That is the power to regulate commerce between the States.

Of course, I realize that the commerce clause has been greatly stretched and broadened; entirely too much so. The idea originally was to regulate commerce, persons, animals, or goods, from the time they left one State until they arrived in another State. Since then I recognize that the Supreme Court has so broadened it that now it covers many businesses in connection with the matter.

Now are you familiar with the case of *Williams v. Howard Johnson*?

Governor ROLVAAG. No, sir.

Senator THURMOND. This restaurant was located on an interstate highway, and they brought a case thereon. That was interstate commerce, and, therefore, they should be required to serve anyone who stopped for service. And this man did stop for service, and was refused service, and the circuit court of appeals said that was a private business and that they did not have to serve him.

And would not the court have to reverse that decision if this legislation is held constitutional on the theory of the commerce clause?

Governor ROLVAAG. Senator, I would be perfectly willing—as a matter of fact I would be delighted if the Congress of the United States would pass the legislation and let the Supreme Court decide the issues.

Senator THURMOND. Governor, that is the easy way out, isn't it? Governor ROLVAAG. It might be a difficult way out.

Senator THURMOND. Don't you think it is our obligation here as legislators, though, to hold that the very first question we should ask ourselves, because we take an oath to support the Constitution, is, "Is this legislation constitutional?" If it is, then we can proceed further to determine whether it is wise, or whether we can afford it.

But that is the first question that we as legislators ought to consider. Don't you think so?

Governor ROLVAAG. Senator, I am not in a position to decide the question of whether or not the proposed legislation is constitutional or unconstitutional. I am not qualified. I don't possess the body of knowledge that the distinguished Senator from South Carolina does.

I would appreciate having this legislation passed. I believe that it extends the opportunities for equality throughout this great Nation, and it would make our Nation stronger and better than it now is, great as it is.

Senator THURMOND. Governor, a few weeks ago we had here a mayor from Maryland, I believe he was from Salisbury, Md., who testified that they had brought about a tremendous change there through voluntary methods. They had been able to get the different people to cooperate.

And he stated in his statement that if there had been a Federal law on the subject at that time requiring Federal compulsion, they could not have made the progress they did because it would have created tensions.

Don't you think that the best way to approach this subject is on a voluntary way, or don't you think less tension would be created, and change can be brought about faster than a Federal compulsion law?

Governor ROLVAAG. Senator, I disagree with you. I think that Federal legislation would be beneficial, that it would expedite the elimination of the tensions that currently exist in our country, both in the North and in the South.

Senator THURMOND. Do you generally believe in strong centralized government with Federal compulsion, or, as a Governor of a State, do you prefer to handle all your problems that you can back home and not inject the National Government into the picture?

Governor ROLVAAG. Sir, I have been Governor of the State of Minnesota for 4 months. And while I do not concur in sovereignty of the States, as several of you gentlemen have mentioned here today, I find myself increasingly aware that as a Governor you like to take more power.

Senator THURMOND. What?

Governor ROLVAAG. To achieve more influence——

Senator THURMOND. You favor that, or do not favor that?

Governor ROLVAAG. I favor an effective government, whether it be a large, effective government in Washington, or an effective government in St. Paul.

The reason, sir, that the Government in Washington has gotten so large is because the States have refused to act and accept their responsibilities.

Senator THURMOND. As Governor, then, I presume that you are going to enforce your public accommodations law strictly?

Governor ROLVAAG. Yes, sir; I took an oath of office to enforce all the laws.

Senator THURMOND. And you don't need any Federal law so far as Minnesota is concerned?

Governor ROLVAAG. That is right.

Senator THURMOND. And therefore your plea here today, then, is Minnesota doesn't need it, but we want it enforced on other States?

Governor ROLVAAG. My plea here today, sir, is for the people of America.

Senator THURMOND. I say, you want it enforced on the other States because you admit you don't need it in the State of Minnesota?

Governor ROLVAAG. Yes, sir.

Senator THURMOND. Thank you, Mr. Chairman.

Senator MONRONEY. Thank you, Senator Thurmond.

Senator Scott?

Senator SCOTT. May I defer?

Senator MONRONEY. Senator Yarborough?

Senator YARBOROUGH. Governor Rolvaag, I didn't have the pleasure of hearing your testimony; but I have read your statement. You represent a unique chapter in American history, in the history of American Governors. In my State when Mrs. James E. Ferguson was Governor, her husband, James Ferguson, had been Governor, so their campaign platform and motto was, "Two Governors for the price of one."

But you in Minnesota have been more unique; you have had two Governors at the same time.

I see that you survived. Congratulations.

Governor ROLVAAG. Thank you.

Senator YARBOROUGH. I have no questions, Mr. Chairman.

Senator MONRONEY. Senator Bartlett?

Senator BARTLETT. Thank you, Mr. Chairman.

Before I ask you any questions, I want to voice an opinion.

My friend, the Senator from Michigan, Mr. Hart, is the fastest arithmetical calculator in this room. His ability to relate the number of nonwhites to whites in Minnesota in terms of percentage is marvelous.

Governor, for my part, I would like to adopt and incorporate as my own the adjectives in reference to your statement made by the acting chairman. It was, in my opinion, indeed moving.

You have given, Governor, the number of nonwhites in Minnesota, and have stated that there was about an equal division between Negroes and Indians, the total being in the neighborhood of 42,000.

Now do you have many Negroes coming into Minnesota as tourists? Governor ROLVAAG. We have a few. We don't have many, but there are some. They have come in with conventions, stayed over for a few days. Many of them go out to our resort country.

Senator BARTLETT. The problems you have related which exist even in Minnesota—and, I suspect, everywhere—in regard to housing,

employment, educational opportunities, exist, of course, principally, I suppose, in Minneapolis and St. Paul.

Governor ROLVAAG. That is right.

Senator BARTLETT. Because that is where the bulk of your Negro populations live.

Governor ROLVAAG. That is correct.

Senator BARTLETT. What is the experience of the St. Paul and Minneapolis Negroes when they go to other parts of the State? Are they accepted?

Governor ROLVAAG. Yes, sir.

Senator BARTLETT. With respect to employment?

Governor ROLVAAG. I don't want to leave the implication, Senator, that everything is wonderful; but in most areas of the State they are accepted.

Senator BARTLETT. In respect to employment, do the Negroes' difficulties arise because of racial prejudice chiefly, or because of lack of adequate skills?

Governor ROLVAAG. Lack of adequate skills is the first problem; lack of training.

Senator BARTLETT. In Minnesota are they employed fairly readily if they are competent to do the job they seek?

Governor ROLVAAG. Yes, sir, we have a number of Negro school-teachers in Minneapolis and St. Paul school systems; and in the rural areas we have a number of Negro teachers; Negro engineers in Minneapolis-Honeywell; chemists; professional people, who are enjoying the full privileges accorded anyone with their realm of knowledge. They are well accepted in the communities.

Senator BARTLETT. Does the Bureau of Indian Affairs maintain a similar system of schools in Minnesota?

Governor ROLVAAG. We have schools on the reservation which are operated by the State of Minnesota, I think, which are partly financed by the Bureau of Indian Affairs, but operated under our school system.

Senator BARTLETT. They don't have any schools which they themselves operate?—"they" being the Bureau of Indian Affairs.

Governor ROLVAAG. Yes, sir.

Senator BARTLETT. Reference has been made to a Supreme Court decision, particularly one in the latter part of the 19th century.

Now isn't it true, Governor, that there are some—perhaps many—who regard fairly recent Supreme Court decisions as being weird and perhaps wicked, and they pray for the day when sensibility and perhaps conservatism will return, and those decisions will be reversed?

Governor ROLVAAG. I suspect you are right.

Senator BARTLETT. I am not a lawyer either, but Supreme Court decisions are sometimes altered by the courts; are they not?

Governor ROLVAAG. That is right.

Senator BARTLETT. How did it happen, Governor, that you attended high school down in Mississippi?

Governor ROLVAAG. At that time my father had a very severe coronary and the doctors had warned him that it would be difficult for him to survive another winter in Minnesota. With the recent acquisition of medical knowledge that wouldn't be the case.

Senator BARTLETT. At that time you went temporarily to the warm climate of Mississippi.

Governor ROLVAAG. Yes, sir.

Senator BARTLETT. For the sake of the record will you please identify members of your party who are with you at the witness table?

Governor ROLVAAG. Mr. Summers, who is an assistant attorney general in Minnesota; Mr. Joseph Scislowicz, on my right, who is on my staff, and our commissioner of administration, Mr. Quigley.

Senator BARTLETT. Governor, where were you born?

Governor ROLVAAG. Northfield, Minn.

Senator BARTLETT. Do you have a large Norwegian population, Swedes and Norwegians?

Governor ROLVAAG. I might say there has been some discussion that the public accommodations law passed in 1885 might have been as much to help the Norwegians and Swedes as it was anyone else.

Senator BARTLETT. Have they been fully assimilated, integrated?

Governor ROLVAAG. Yes, sir.

Senator BARTLETT. I thought that would be easy. I am married to one.

Governor ROLVAAG. I might say, as far as I can recall, since 1900, in Minnesota, there has been but one Governor elected who did not claim to be either a Norwegian or a Swede.

Senator COTTON. What is your attitude toward Republicans?

Governor ROLVAAG. Sir, we could do with a few less in Minnesota, but they are well integrated. Mr. Kunzie can attest.

Senator BARTLETT. I had the frightful experience in Alaska, where there are many, many Scandinavians having at one time run against a man named Peterson, and it wasn't easy.

In conclusion, Mr. Chairman, on a personal note I would like to thank the Governor very, very much for having recently in Minnesota, Alaska Neighbor Day, and having the privilege of having been there, and joining with him and celebrating this great occasion. Thank you very much.

Senator MONRONEY. Thank you, Senator Bartlett.

Senator Hart?

Senator HART. Governor, I add my welcome, too.

The claim that you make on your road map is, when we really think about what is important, a much prouder boast for Minnesota than its claim to the alleged 11,000 lakes or whatever it might be.

Governor ROLVAAG. Almost 15,000.

Senator HART. Whatever it is I am glad that both of us can put that kind of invitation into the flow of commerce.

We are concluding 5 weeks of hearings on this bill. I think someone from States such as yours and mine ought to make what might be regarded as an admission but which is the bitter truth, that even our claims are a little beyond performance and I am sure this is what infuriates our colleagues from the South.

The problem of discrimination in the North shows in areas different from the areas that it shows in the South, but as you say, we have it, too. I said it before, ours is a somewhat sophisticated kind and to the South it is a little more hard nosed. Ours is in the realm of jobs and housing, whereas in the South, I take it, it is having a chance to vote and to get a cup of coffee.

At least our public policy is as you recite on your maps, and as Michigan recites. Our public accommodation law was enacted in the

same year as yours, 1885. I was told in yesterday's hearing by a lawyer from Detroit, that this Federal statute that we are now considering should not be enacted because I would not be reelected if I voted for it.

I told them I got the message, but we had to do as our consciences suggested. I guess the point I am trying to make is that we can argue about which region has achieved a higher degree of perfection, but perfection has been achieved by no region. And none of us is so foolish to think that the enactment of this statute will change the hearts of men, but it will advance us along the road that we better be on lest real disaster overtake us and it will permit in all regions that which is now permitted in the North. It will permit each individual to do that which he regards as right without the kind of economic and social pressure that so many witnesses have described inhibits them from opening their properties to all of the public without imposing a racial bar.

And, again, I am sure one of the reasons that the southern spokesman finds it difficult to accept the sincerity of the northerner is that in the North, it is within the power of each individual to do that which this law would require and it is within the power of each individual to treat equally every other individual because the law requires it.

Public policy in the North is such that where there is discrimination, the fault is the individuals, not the public authority. And one of the truisms we always assign to America is that here is where you judge a man not from the side of the railroad tracks he may come or where he went to school or where he goes to church or where his parents were born or what his color is, but as an individual.

And, when we get this statute on the books, that is the way in fact an individual will be required to be judged as he walks up to get a room or a cup of coffee. It is a national problem, and this is just one small segment of the civil rights program that is aimed to meet it, and we are very grateful that as we close these hearings, you would voice the notes you have.

May I explain that I normally do not extend my comments this way, but it happens that this is the last day, and I think in fairness, this note of, in a sense an admission, should be voiced by some of us who have been aggressive in our insistence that this bill should be passed.

Governor ROYVAG. Yes, sir.

Senator PASTORE. Senator Scott?

Senator SCOTT. Governor, I welcome you here, and I am glad that you have followed a line which I have been trying to develop in questioning and that is the right of innkeepers under the common law to hold out equally to the public their accommodations and the quotations are most useful as a part of this record.

So, I repeat again what appears in your statement, that the ancient common law never recognized any property right of hotel keepers and similar persons following public callings to discriminate.

The question has been asked you—you and I both support this bill—the question has been asked you whether you are aware that the Federal law is not founded upon the common law, and you have answered that you are aware of this, but is it not also true that the State laws of most States are founded upon the common law and that the Federal laws apply to State laws where applicable or possible?

Governor ROLVAAG. That is correct.

Senator SCOTT. That is correct. So that we are justified, I think, in pointing out the operation of the common law. Now, by the way, when did you request the opportunity to testify?

Governor ROLVAAG. Pardon?

Senator SCOTT. When was request made to testify?

Governor ROLVAAG. We first made a request to testify in the middle of July sometime.

Senator SCOTT. When?

Governor ROLVAAG. In the middle of July. I might say, Senator Scott, I should say we received in my office, on July 1, the letter from Senator Magnuson inviting Elmer L. Anderson, Governor of the State of Minnesota, to testify. [Laughter.]

Senator SCOTT. We are not always up to date down here, Governor.

Governor ROLVAAG. I think, sir, there is something to be left to your recordkeeping.

Senator SCOTT. I want to then repeat, although I asked in open hearing that all of the Governors be asked to testify, my request was made long after the 1st of July, after the 15th. Now, I take you back to the Governors' conference.

Senator PASTORE. Before the Senator gets off on that, will he yield?

Senator SCOTT. I yield.

Senator PASTORE. Naturally, the conduct of these hearings is the responsibility of the chairman of the committee. I am not the chairman of the committee, but I have been acting chairman of the committee since the illness of the distinguished chairman.

But, I know it is a matter of practice, very, very religiously followed, that what is known about the proceedings by any member of this committee is welcome information for all. Now, the list of the witnesses has been prepared. And sometimes through the recommendations made by members of the committee, Mr. Thurmond has already recommended several witnesses whom we have heard over the past several days. These are names that were suggested by him.

The representatives that came here from South Carolina, North Carolina, Florida, and Georgia—

Senator HART. And Michigan.

Senator PASTORE. Those were the names that were suggested by Mr. Thurmond. Certainly he made no secret of it. He gave the names to our staff, and these people were officially notified of these hearings and asked if they would come, and they did come. Now, of course, in all likelihood, we wouldn't know unless we ask.

All I want to do in order to make this very clear on the record is, that if the Senator from Pennsylvania had asked me or any member of the staff, certainly he could have found out the witnesses that are to appear, including the distinguished Governor from Minnesota.

I don't say this in any criticism of him, merely in clarification of the record. There is no secret here about who is going to testify on what. As a matter of fact, I don't meet these witnesses until they actually appear before me on the morning that they do testify. And that has been the procedure here. I have attended every single day from the time we started these hearings. I think most of the members of the committee have. There has been no secrecy involved. There has been complete disclosure, and I remember the incident that the

Senator brought up of reference to the fracas that occurred at the Governors' conference that involved his friend from New York, the Governor of New York, and a few other people down there.

I hold no breach for one side or the other side, but—

Senator SCOTT. Mr. Chairman, I have, as you know, the greatest respect and affection for you, the fairness with which you have conducted these proceedings has been obvious to all. Your patience has been endless and your good will has been evident. But the fact does remain that in open hearing, on one occasion, and the record shows it, that I asked why Governors had not appeared, and said I thought it would be desirable if they did. I was following a press release from the Governor of Minnesota in that request. I was not told on the record at that time that any Governor would appear, and I was told by a staff member at the time the session adjourned or recessed for the day, that several southern Governors were expected to appear and perhaps the Governor of California.

I welcomed Governor Rolvaag, and I was merely proceeding to ask certain questions, which I am sure he will not mind in the least my asking him. If I may proceed.

Governor, may I go back to the Governors' conference?

Governor ROLVAAG. Yes, sir.

Senator SCOTT. Actually, there did appear here four Governors from Southern States, South Carolina, Georgia, Alabama, and Mississippi. Until today, no Governor outside of the South has appeared. I understand we have but one witness to go before the session will be closed. Therefore, there have been five Governors who appeared, four against the bill and one in favor of the bill. So, the presentation at this moment, is four Governors against and one Governor for.

Now, at the Governors' conference, you issued an invitation, using, I may say, the same kind of strong language, perhaps with the same kind of political overtones that I myself might have used in your place and your situation.

Nevertheless, your press releases called on all the Republican Governors of the Union to have the courage to come up here and testify before the committee, and you said they had not even asked to appear.

Now, have you made any effort, following your press release, to secure the attendance of any other Governor of either political party at these hearings?

Governor ROLVAAG. No, sir; I do not interfere in the affairs of other Governors. I presume that Governor Rockefeller and your own Governor, Governor Scranton, would, if they felt moved by this question, come to testify.

Senator SCOTT. Governor. I notice a remarkable similarity in the press releases of each of the Governors, all of whom voted to abolish the resolutions committee, and I have the press releases on the desk here, in which all of them proceeded to attack Republican Governors or singled out a Republican Governor, and I am also aware that there were more persons at the conference from the White House or connected with the White House than there were Governors. And, would you mind—

Governor ROLVAAG. You have more knowledge, sir, than I do.

Senator SCOTT. Scripps-Howard Press were there and they reported and one of my representatives was there, and he reported it,

and I am sad it was a fact—not all from the actual physical environs of one building, but from that source; and I would like to ask whether or not there was consultation among the Democratic Governors in regard to the issuance of these press releases, that they bear such a remarkable similarity, one to the other.

Governor ROLVAAG. Not to my knowledge. I consulted with no one on my release.

Senator SCOTT. You have testified quite positively on this civil rights bill here. I believe you were one of the Governors who voted to abolish the resolutions committee so that the matter could not be heard at the Governors' conference; isn't that correct?

Senator PASTORE. I don't think this Governor ought to answer that question if he doesn't want to.

Senator SCOTT. It is a matter of record.

Governor ROLVAAG. I have no objections.

Senator PASTORE. I think we have gone far afield. This man is invited here as the chief executive of his State to testify on this bill.

Now, if the Senator from Pennsylvania wants to make an issue of this, I don't think this is the proper place. If the Governor wants to answer the question, he is privileged to do so, but he is not compelled to answer the question because I consider the question improper.

Senator SCOTT. The Governor has shown no reluctance to testify whatever. This is a matter of record.

The Governor has been instructed by the chairman, he may not answer the question if he does not wish to, and I now repeat it.

Did you, Governor, vote to abolish the resolutions committee in order to avoid discussions of civil rights at the Governors' conference?

Governor ROLVAAG. Sir, I voted for the motion to abolish the resolutions committee at the Governors' conference, but not for the purpose that you impugn to it.

As a matter of fact, we spent a whole afternoon in free open discussion on the question of civil rights, every Governor having the opportunity to speak, time permitting. It so happened that I was the junior Governor of the 54 there, and I did not get my time.

But there was full and free open discussion. There was no gagging of any man at the Governors' conference.

I must agree with Senator Pastore, that this discussion carries a little far afield from Senate Bill S. 1732.

Senator SCOTT. You see, it has gotten involved in my civil rights and that is why I am a little concerned.

Governor ROLVAAG. I would like to protect your civil rights.

Senator SCOTT. I would like to protect my civil rights and I will do the best I can to protect them.

But Governor, after the discussion of civil rights, there was an attempt by at least one of the Governors to have these acted upon formally by the Governors' conference and a motion to table was offered and did you not vote to table the motion to have the civil rights action which you have supported? Did you not join in a motion to table the resolution and the attempt to have it made a formal part of the Governors' conference?

Governor ROLVAAG. The executive committee of the Governors' conference was directed by the Governors present by a vote of 38 to 3, sir, to take up the matter of civil rights and make a thorough study of

it and report back to the Governors' conference. The Governors' conference is not a legislating body. It was my position that the Governors should go to their local States and take up the matter of civil rights and come as the chief executive of their States to this body to represent the point of view of their State.

Senator SCOTT. So it was deferred for study until the next Governors' conference a year from now, isn't that right?

Governor ROLVAAG. That is right.

Senator SCOTT. I take it you would not want this Congress to consider the deferring for further study of the bill now before this committee, would you?

Governor ROLVAAG. No, sir.

Senator SCOTT. That is all.

Senator PASTORE. Governor, you have a public accommodations law in Minnesota?

Governor ROLVAAG. That is correct.

Senator PASTORE. Are you familiar with whether your law is stronger in Minnesota than it is in Pennsylvania?

Governor ROLVAAG. I have no knowledge of what the public accommodations law may be in Pennsylvania. Governor Scranton was not at the Governors' conference. I had no opportunity to discuss it with him or with any other Pennsylvanian.

Senator PASTORE. Do you mean to tell me that Governor Scranton was not at the Governors' conference?

Governor ROLVAAG. Yes, sir.

Senator PASTORE. That is all.

Senator SCOTT. Mr. Chairman, Governor Scranton was in the last week of the legislature. The chairman of the committee has been a Governor of his own State.

Senator PASTORE. That was a good place for him to be.

Senator SCOTT. I agree, that the Governor of Pennsylvania was pursuing not only the wise course, but his constitutional responsibility in remaining with his legislature during the last days of that legislature, during a period where anything can happen, and I submit further, that the subsequent events of the Governors' conference where I said that so many Governors managed to cut, run, and scatter, further emphasizes the wisdom of the Governor of Pennsylvania in being the only Governor who did not go to the conference but attended to the business of the Government of his State.

Senator PASTORE. I want to conclude that one of the most courageous men who has testified before this committee is the distinguished Governor of Minnesota, who has made an excellent statement, who is a firm believer in civil rights not only in word, but in deed, who has endorsed the law of accommodations in his own State, who has pointed out that tourist employment in his State amounts to \$350 million a year, that the law is vigorously endorsed in his State and he has the courage, fortitude, and vim to come to this committee and say so.

I compliment you.

Governor ROLVAAG. Thank you.

Senator SCOTT. I want to add, the Governor's statement was excellent, forceful, very much to the point, and contributes to our knowledge and understanding.

Governor ROLVAAG. I ask the Senator from Pennsylvania, may I use that endorsement in my next campaign?

Senator SCOTT. I would say to the Governor, from now on, he is on his own.

Governor ROLVAAG. Thank you.

Senator YARBOROUGH. Mr. Chairman.

Senator PASTORE. The Senator from Texas.

Senator YARBOROUGH. Governor, a good many years ago, I read a very gripping novel about the pioneering life in the northwestern plains, "Giants in the Earth." Was that author your father?

Governor ROLVAAG. Yes, sir.

Senator YARBOROUGH. I see from your statement the facility of use of language is held by more than one member of the family.

Governor ROLVAAG. Thank you.

Senator YARBOROUGH. Governor, in your statement, you mentioned the Special Commission on Indian Affairs.

How many Indians have you in Minnesota?

Governor ROLVAAG. Approximately 20,000.

Senator YARBOROUGH. Most of them Chippewa?

Governor ROLVAAG. There are Chippewas, we have some Sioux, we have a small band of Winnebagos, but principally Chippewas.

Senator YARBOROUGH. Has there been a problem in Minnesota in the past, in discrimination against Indians?

Governor ROLVAAG. Yes, there has.

Senator YARBOROUGH. Governor, you have given a very eloquent appeal to tourists coming to that State. Did you say you were from Northfield?

Governor ROLVAAG. Yes, sir.

Senator YARBOROUGH. I have a vague recollection of a rather large group from Missouri, some named Alder and James, went to Northfield and didn't get such a welcome reception there.

Governor ROLVAAG. That is right, that was the end of Jesse James and his crew.

Senator YARBOROUGH. Thank you.

Governor ROLVAAG. I might say, Senator, I was married in your State, and married a Texan, and I enjoyed Texas.

Senator YARBOROUGH. Thank you very much.

Since Senator Bartlett and you have had a little exchange here about the racial derivations of the settlers in Minnesota, I want to say the first group of Norwegian migrants to America came to the Republic of Texas, and they later migrated farther westward and northward.

The first group settled in the town of Brownsboro, 9 miles from where I live, and due to a number of other factors, they moved to higher ground and later changed migration and went to the great northwest of this country.

Because a few families, the Hansons, Biersens, and Fergusons stayed there, and a few of their descendants live there today and are some of my closest friends.

Governor ROLVAAG. A cousin of mine.

Senator PASTORE. Any further questions of the distinguished Governor?

Governor ROLVAAG. Thank you very much, gentlemen.

Senator PASTORE. Thank you.

Senator HART. Should Governors have gone or shouldn't they have gone? Mine went.

Have you resolved that problem?

Senator SCOTT. I see it still worries you, Senator.

Senator HART. I sense you were worried.

Senator COTTON. My Governor, the Governor of New Hampshire was there.

Governor ROLVAAG. Yes; he was there.

Senator COTTON. Didn't you like him and find him a fine fellow?

Governor ROLVAAG. Very fine gentleman.

Senator COTTON. Isn't it a shame he is a Democrat—he is a grand guy. [Laughter.]

Governor ROLVAAG. Thank you, Senator.

Senator COTTON. Other Governors haven't come before this committee. It was their right not to come. They aren't here to answer for themselves and I think no inferences should be drawn or no Governor should be put on the spot by the committee, and I am not reflecting on the chairman. I think—I wish to say this—we are all tired. We have been in hearings on these civil rights questions for 6 weeks. We have been in session nights on the railroad strike bill, and because of the unfortunate illness of the chairman, the Senator from Rhode Island has had a terrific burden to bear. He has borne it well. He is fair, he is sincere. As the ranking minority member of this committee, I want to say that he has treated me, and as far as I know, every member of this committee with every courtesy and fairness possible.

I merely was compelled to say, and I think when we think it over afterward, we will all agree that we should not ask the Governors. It is well to invite them, but we should not let the record show any implication one way or the other whether they came or not. I merely address myself to that point and I did so in all kindness and I meant no implication on anyone.

Senator PASTORE. Well, I appreciate your statement. The Senator from Rhode Island understands when we have a little political fun with a witness. I don't like it and I propose to stop it. I think this is the wrong time, the wrong place, and with the wrong witness to play a little politics.

Senator SCOTT. Now, Mr. Chairman, may I be heard?

Senator PASTORE. You may be heard.

Senator SCOTT. Mr. Chairman, I again call attention to this committee, the fact that I not only congratulated the witness on his statement, I said I agreed with the witness on his statement. I said that he had brought out new matter here which was helpful, but the Governor had indeed issued a press conference which was, and I think he himself would willingly admit, was of a highly political nature, prior to his attendance here.

I have heard many Senators inquire of statements made by a witness before he appeared of inquiries as to what he meant by a press release. I pursued that subject. I have no regrets for it. I have no desire or intention to withdraw it.

I stand entirely on the propriety of what I have done and I regret very much that others may disagree with me.

There is no criticism of the Senator from Rhode Island, who has been entirely fair in these proceedings.

I am sure that the Governor of Minnesota recognizes what was said to him was said in good will and in honest disagreement without malice and without hostility. And if the Governor cares to indicate he feels otherwise, then I'll apologize to the Governor of Minnesota.

If I have offended the Governor of Minnesota in any way, he may be assured that if he will indicate where, I'll gladly withdraw any statements. This is not my purpose. But I want to make it extremely clear, (a) that I am for this bill, (b) that I have nothing but the highest regard for the chairman.

Senator PASTORE. On that note, are there any further questions of this witness?

Governor ROLVAAG. Senator, I have a document or two here that I would like to have inserted in the record.

Is it customary to ask the permission of the committee or do you just present it to the stenotypist?

I have a compilation here of the antidiscrimination laws of the State of Minnesota which I thought might be interesting for you to have.

Senator PASTORE. We'll incorporate it by reference, is that satisfactory to you, sir?

Governor ROLVAAG. Fine.

Senator PASTORE. Is there any objection? The Chair hears none, so ordered. Thank you.

Governor ROLVAAG. Thank you, sir.

Senator PASTORE. Thank you very much, Governor.

Governor ROLVAAG. I thank the members of the committee.

Senator PASTORE. I repeat again, you were a breath of fresh air.

Governor ROLVAAG. Thank you, sir.

Senator MONROE. The committee will be in order.

We have only a limited amount of time, and a very distinguished member of the New York bar, a man nationally known for his authoritative writings on important legal matters, has honored the committee by accepting our invitation to be here, Bruce Bromley, attorney, New York City.

We are happy to have you and you may proceed in your own way.

The committee will be in session. Those leaving the room will retire quietly.

STATEMENT OF BRUCE BROMLEY, ATTORNEY, NEW YORK, N.Y.

Mr. BROMLEY. Mr. Chairman and members of the committee, my name is Bruce Bromley. I am a member of the law firm of Cravath, Swaine & Moore, 1 Chase Manhattan Plaza, New York City.

I was admitted to the bar in 1920. I became associated upon graduation from Harvard Law School with Henry L. Stimpson, then at the height of his professional career at the bar, and before he embarked upon his long and distinguished public service. He, as you may know, was intimately concerned with many important constitutional problems.

I left there some years later to go to the Cravath firm and since that time, in my capacity as a litigating of trial lawyer, I too have been concerned with important constitutional matters. I mention only the steel seizure case, the motion picture cases, many antitrust cases, to

indicate that I have had a broad experience and the opportunity at least to possess some degree of expertise and that is as far as I am willing to go in that area.

I also served as a judge of the Court of Appeals of the State of New York, and wrote on Federal constitutional questions, particularly under the 14th amendment. I am a member of the President's Lawyers Commission on Racial Discrimination and a member of its executive committee.

Let me say at the outset that as a Christian and a citizen of this great Nation, I support the bill before your committee wholeheartedly. I believe it to be intelligently and adequately drawn and soundly based on constitutional principles.

But I am not here to talk either as a citizen or a Christian, but simply as a lawyer. And it is my purpose with your permission to approach the first question and that is, What about the constitutionality of this law under the commerce clause?

I perhaps should tell you that in 1914, I first entered upon my studies of the commerce clause under the tutelage of ex-Mr. Justice Frankfurter, who had a course at Cambridge especially devoted to that area of constitutional law. So you can judge that I got an early start with principles of his with which many of you are familiar.

Now I paid some attention at the outset to the particular words of article 1. As you all know, they are simple and few and direct. The Congress shall have power, and I emphasize power, to regulate, and I emphasize regulate, commerce among the States, and finally, to make laws necessary and proper thereto. Now what is this congressional authority?

As I view it, it vests in your honorable body the power and the authority to protect interstate commerce from burdens and obstructions. It is, of course, not limited to transactions which in nature are an essential part of the flow of commerce. The fundamental principle, as I see it, is that the power to regulate is the power to enact all appropriate legislation for the protection and advancement of commerce, to adopt measures to promote its growth, to assure its safety, to foster, protect, control, and restrain it.

In modern times, as one of your honors has pointed out, in exercising this authority, Congress has been sustained in enacting laws regulating such things as labor-management relations, wages and hours, competitive practices, the quality and labeling of food and drugs, and many other aspects of commerce activities. Now these laws adopted by the Congress have been applied not only to enterprises engaged in interstate transportation or communication, directly in the flow of commerce, but the laws have been adopted and sustained where they are related to the business of furnishing accommodations through interstate travels, to retail automobile dealers, if you please: the corner drug stores, the department stores, the theaters, and other retail enterprises.

Now although many of these cases in the Supreme Court involved sizable enterprises, the power of the Congress, as I see it, does not depend upon the amount of commerce or the size or scope of any particular enterprise subjected to this kind of regulation. I suppose you have heard many times that the Supreme Court in *Wickard v. Filburn* applied the Agriculture Adjustment Act to a farmer who sold

only 23 acres of wheat, and whose individual effect upon interstate commerce amounted to only the pressure of 239 bushels of wheat in the total national market.

And I suppose you are also familiar with the *White Plains Publishing* case, in which the wage and hour law was applied under the commerce clause to a newspaper whose total circulation was about 9,000 copies of which only 45, if you please, about one-half of 1 percent, Senator Hart, if I am right, went in interstate commerce.

Now let's look for a moment at the three sections of the law before your honors as they are grouped. First, hotels, motels, restaurants, and other establishments furnishing goods or services to interstate travelers. I don't see how anyone can have any trouble with the scope and thrust of the commerce clause in that area.

As long ago as 1887, Congress enacted a law forbidding a railroad in interstate commerce to subject any person in any undue or unreasonable prejudice or disadvantage in any respect whatsoever. Now that provision was held by the Supreme Court not only to prohibit railroads from denying equal accommodations for Negroes in Pullman cars, but extended in a later decision to service in a restaurant operated as a part of interstate transportation.

In *Bounton v. Virginia* in 364 U.S., I want to point out that although the Interstate Commerce Act is only applicable to facilities of railroads and motor carriers, your constitutional authority covers all businesses affecting interstate commerce and restaurants and service stations and hotels and motels, and other establishments serving interstate commerce, and such facilities of interstate commerce in my view as highways and buses. So I say the interstate commerce clause empowers you to enact this part of the law. I think it is perfectly clear, and I would like to add one thing: I believe it to be sound also that Congress in removing the impediment of interstate commerce which discrimination in motels or hotels creates, is not limited to forbidding discrimination against interstate travelers alone.

It may as well forbid discrimination against local customers because the Supreme Court has said in the *Darby* case in 312 U.S., that Congress may choose the means reasonably adapted to the attainment of the end permitted even though they involve control of interstate activities.

Now I pass to theaters and other exhibitions, the second part of the law. To me, this appears equally within the undoubted scope of the commerce clause. I believe the power of Congress to enact legislation removing unnecessary restrictions upon the markets for interstate goods or services has been thoroughly established in the anti-trust field, if you will, under the Sherman Act. Restraints involving the local exhibition of motion pictures have often been the subject of Federal legislation. That has been extended to legitimate theatrical productions in the *Schubert* case, to professional boxing matches, to professional football, on the theory that notwithstanding the local character of the performance or contest, the business of presenting it involves interstate commerce.

Now, we come to the third part, retail stores and service establishments. Aside from the argument applicable to motion picture theaters and other entertainment sources, I believe that the constitutionality of prohibiting discrimination by retail stores and service establish-

ments can be supported on two independent lines of reasoning and first I go to the philosophy and decisions behind the National Labor Relations Act.

I think those decisions furnish a close analogy. In *National Labor Relations Board* cases, the courts have sustained the power of the Congress to eliminate the causes of labor disputes that may curtail the flow of interstate commerce by halting production—you remember the *Jones and Laughlin* case and the terrible fight we business lawyers had with the Government in that area. We got licked by the way, so I say those cases now firmly establish that Congress may eliminate the causes of labor disputes that may curtail the flow of interstate commerce by halting production.

Congress may likewise control labor relations which may halt the resale of goods produced in the factories. So I think that offers a first and powerful analogy to indicate what the state of the law really is today, for surely racial discrimination by retail outlets provokes similar disputes to wages and working condition disputes.

Racial disputes, as we all know only too well today give rise to picketing and other demonstrations. This picketing and these demonstrations interfere with the sale of goods and thus affect interstate commerce, in my judgment, in the same manner as do labor disputes involving the same retail stores.

The other line of reasoning invokes the settled power of the Congress to prevent goods from being brought into a State if their use or their distribution would be harmful to the people of the receiving locality. And on this theory, Congress has closed the channels of interstate commerce to the transportation of prostitutes, has forbidden the importation of gambling equipment, and has barred the transportation of goods made under substandard labor conditions.

In this area, I refer again, as I did a moment ago, the power of Congress is not cut off when the goods reach the shelves of the local retailer. In the *Sullivan* case, in 332 U.S., the Supreme Court held without dissent that Congress has the power to forbid a small retail druggist from selling drugs without the form of label required by the Federal Food and Drugs Act even though the drugs were imported in properly labeled bottles from which the labels were not removed until they reached the local drugstore and even though the drugs in question had entered the State 9 months before resale.

Of course, I concede that Congress does not hold the power to regulate all of a man's conduct solely because he has at some time in the past imported goods in interstate commerce. And I not only concede, I assert there must be some connection between interstate commerce and the evil to be regulated.

I say that this proposed regulation very definitely meets that test, because in each one of these three classes of facilities, there is a modification in four sections, all of which are illustrated by the first section, (i), and I am now reading from page 6, third line:

If the goods, services, facilities, privileges, advantages or accommodations offered by any such place or establishment, are provided to a substantial degree to interstate travelers.

To my mind, that would clearly eliminate from the coverage of this act many small establishments, like a barbershop on the East Side of New York, or a single-man barbershop in a town of 5,000.

I think this technique followed in this act is the same intelligent technique followed in the antitrust acts, and that we need not worry about coverage of people who really shouldn't be covered.

Now because I know you are tired, I would like to say just a word about the 14th amendment. I venture again to remind you of the words used:

No State shall deny to any person within its jurisdiction the equal protection of the laws and again Congress shall have the power to enforce by appropriate legislation the provisions of this article.

Now as I wrote in the *Dorsey* case, and as I guess now everybody agrees, this prohibits State action and nothing else. It doesn't prohibit private action. And the question that is now coming to the fore, as it was years ago, is what is State action?

If a State licenses a barbershop to pay a \$25 fee for the right to conduct business, is that State action? Well, I think clearly it is not. But I mention it only for the purpose of showing that constitutional lawyers know perfectly well what the problem is. They know the amendment prohibits State action and they know the difficulty arises when you try to find out what is State action. And the Supreme Court says, where a mayor of a town or a police chief orders action to be taken against peaceable assemblers, that is State action.

Now some of you may think that goes too far, but the courts are aware of the problem; they are capable to deal with it, and I think, too, this law ought to be based on the 14th amendment.

Senator PASTORE. Is the action attributable to a State within the context of the expression of the Constitution because of the tacit acquiescence on the part of the State itself as a governing body to permit either a police chief or a mayor to do such a thing?

I mean what is the legal logic for it?

Mr. BROMLEY. I don't know about tacit acquiescence, but having vested the power in public officials, if they exercise it then I think it is not unreasonable to say the State has acted.

Senator PASTORE. I am not talking about a case where the State has already passed a law empowering an official to do this and so because then you don't have a problem.

Mr. BROMLEY. Nor am I.

Senator PASTORE. You don't have a problem; that is very, very simple.

Mr. BROMLEY. That is right.

Senator PASTORE. But let's assume a mayor on his own, or a customary tradition—

Mr. BROMLEY. What?

Senator PASTORE (continuing). Customary tradition takes place in the locality, which becomes the pattern of that locality, and yet the State does nothing to eliminate it or to do away with it. Would you consider that within the scope of the interpretations of the Supreme Court that that is State action?

Mr. BROMLEY. I should consider it very doubtful.

Senator PASTORE. Doubtful. Then how do you line up this question of the mayor or the police chief that you have just given?

Mr. BROMLEY. I have only said that is what the Supreme Court has decided.

Senator PASTORE. Under what circumstances, Mr. Bromley?

Mr. BROMLEY. Where the mayor—as I reiterate, where the mayor or the police chief ordered these people to be arrested.

Senator HART. No ordinance, simply a position stated by a Carolina case.

Mr. BROMLEY. There was no ordinance?

Senator HART. They were not using it.

Senator COTTON. Is this the New Orleans case?

Senator HART. Greenville, N.C.

Mr. BROMLEY. Greenville, or someplace in North Carolina.

Senator PASTORE. Greenville, S.C.

Mr. BROMLEY. We were close.

Senator PASTORE. In other words, are you actually saying that the court decisions have been that you don't necessarily have to have a statute?

Mr. BROMLEY. You don't necessarily have to have a statute.

Now, what—

Senator PASTORE. That is the point I make.

Mr. BROMLEY. You're right, sir. What I was leading up to, I look with a little surprise upon this bill in this aspect, and I didn't come here to criticize it; but it is true that in its recitals it talks about the 14th amendment. But when we come to look at what it provides must be done, we don't find any reference to anything but to the commerce clause.

Now, therefore, I am constrained to agree with my dear friend and the junior Senator from my own State, Senator Keating, that he is right when he proposes these amendments. I think he is absolutely right. Because if you read what he proposed you will see that it is undeniable as he states, that under his proposal the 14th amendment basis will reach some areas—at least one—which the commerce clause does not reach.

Now what is that area?

The local laws requiring discrimination, like the 7-foot wall in the restaurant, like the separate utensils and china, and tables and chairs, and everything else in some other States, like all that list of discriminatory laws.

Under Senator Keating's proposal the 14th amendment would reach that and wipe them away with one fell swoop, because those laws undeniably are State action.

So I would like to see this law amended, if it can be done without serious prejudice to its legislative process, to do just what Keating says in his first proposal made in the amendment which he introduced.

Senator PASTORE. I think that one of those such laws was declared unconstitutional by the Court.

This amendment that you speak of, which is the Keating amendment, would brush them all away.

Mr. BROMLEY. Yes, sir.

Senator HART. You would agree none are enforceable now anyway?

Mr. BROMLEY. I would agree, but—yes, it takes a long time.

Senator HART. I understand.

Mr. BROMLEY. Now I want you to stop me if I have talked long enough.

Senator PASTORE. No. We have a standing rule here that we can't meet by objections raised by one of our Members when the Senate is in

session, and it will be in session at 12 o'clock. So you have up until 12 o'clock, sir.

Mr. BROMLEY. I don't want to have to come back, because I am very busy.

Senator PASTORE. I realize. If there is anything else you wouldn't need to come back, you can finish it in the record. We do intend to bring these hearings to a close at 12 o'clock today.

Mr. BROMLEY. Well, I did intend to say something about the repeated assertion of the infringement on the rights of private property.

Senator PASTORE. Please do so.

Mr. BROMLEY. I was very much interested to read Governor Bryant, before the Judiciary Committee, or maybe before here, assert powerfully that his legislation imperils rights to private property.

And Senator Hart, having been born and raised in Michigan, I was especially interested in the question you put to Dr. Lake on that day when you asked him if he knew that the Michigan Public Accommodation Act in 1937 had gone to the Supreme Court and the Supreme Court had said that act encounters no constitutional infirmity.

I thought that was a telling point. And therefore that caused me to look at our own New York law. And, as the Governor from Minnesota, I find that we had a public accommodation law, believe it or not, before I was born, way back in 1881. And it went to the court of appeals in 1888, and this same private property argument was made. And our court had no difficulty in holding it constitutional under our police power, and pointing out—by the way, that was a rollerskating rink from which three Negroes were excluded in upstate New York. They had no difficulty in saying, "Well, all private property is held subject to governmental regulation in some aspects. You can't take your private property and load it up with dynamite. You can not commit nuisances on it. You can't do a host of things."

And while I am at it, where were our southern friends on this private property argument—and I don't address this to anyone in particular—when these laws were passed about building walls in restaurants and using the separate china? I didn't hear anybody down there say, "Well, that interferes with the right of the owner of the restaurant."

So I really think you can dispose of that.

There isn't any right created in the Constitution that applies to private property. There is a difference in the Constitution between powers and rights all the way through. And under the commerce clause a power is conferred upon you, and merely because the 10th amendment says what it does. It doesn't mean that your power is limited because of some overriding right. Added to which, the 10th amendment doesn't talk about right. It says the powers not delegated to the United States by the Constitution, nor prohibited to it by the States, are reserved to the people.

That is all I want to say about private property.

There was one other thing, and with great hesitation I venture into it.

When one becomes as intimately familiar as some of us are with the difficulties in the South, having to do with present arrests, bail problems, conviction problems, the long course of review, it struck me the other day that what the staff members ought to be thinking about is to take that section 1448 of 28 U.S.C., the removal section, which I

think was at some time drafted by some Dutchman, because I swear I can't understand what it means, and I have never seen a lawyer who does, and make it clear that it applies to this civil rights law, that every time a person is arrested and held in high bail, that the Federal Government, if it wants to, may remove that to the Federal court.

But that is a fringe on this bill, which I only wanted to put in the minds of the lawyers, because I won't have time to see them privately.

I want to say to your honors that I much appreciate the tremendous time, patience, and intelligence that you have devoted to this problem. I applaud it. And I want particularly to applaud your staff who have been so helpful and worked so tirelessly and effectively.

And I thank you.

Senator PASTORE. Thank you very much, sir. You have been a great help.

Senator MONRONEY?

Senator MONRONEY. I think it is a great tragedy that this background information the witness holds has been presented so briefly, that the committee has been exposed to it so briefly.

I am still troubled on the interstate commerce clause. There are no restrictions on what we can rule to be in interstate commerce. Therefore, under the powers of the Federal Government is there any cutoff place—not just on bias, but on regulation, on policing powers of industry, corporate and otherwise—that the Federal Government would have?

I always presumed maybe it was just a tradition of the Government not to invade the States rights, but I also presumed there were certain definite limits beyond which we couldn't go in controlling matters which were intrastate in nature.

Mr. BROMLEY. My dear Senator, I think there are plainly limits. Let's just take a very simple one.

You can't apply this law to a little barber shop whose activities have no substantial effect on interstate commerce. And you can't apply it in any area or any law under the commerce clause unless you are dealing with some activity which is either in the stream of commerce or has a substantial effect upon that flow in commerce.

I don't see, sir, why that worries you in the slightest.

Senator MONRONEY. What you say and what the Attorney General says—and I want to be as brief as I can, because this is very important testimony you have to give us, it gets right at the heart of the case. Does that five-stool quick lunch, located in a city, serving nontransients, come within the commerce clause?

Mr. BROMLEY. What kind of a lunch?

Senator MONRONEY. A five-stool quick lunch, capable of serving five people at a time.

Senator PASTORE. You and I call them short-order restaurants.

Mr. BROMLEY. Yes, sir. I am often there.

Senator MONRONEY. The case of Mrs. Murphy's boarding house?

Mr. BROMLEY. Not covered. I don't care what he says. Not covered.

Senator MONRONEY. How big must a motel be? How near an interstate highway? What portion of its guests should be interstate or purely local?

Mr. BROMLEY. Those are questions which the courts deal with in antitrust cases and labor standards cases and labor relations cases every day. They offer no peculiar problem.

It doesn't make any difference how big it is, how near it is. Does it have any effect on interstate commerce? And if it has some effect, is it substantial? And what is its nature? Is it restraining in effect?

The courts handle that every day.

Senator MONRONEY. The Attorney General testified that his definition of "substantial" is "something more than minimal."

Senator PASTORE. Right.

Mr. BROMLEY. Sir, we have it in antitrust cases. Section 7 of the Clayton Act, "substantial restraint on competition." We deal with it every day in the antitrust field. All Federal courts do; all lawyers do.

There isn't anything mysterious about "substantial." No, sir, there isn't.

Senator MONRONEY. Would Congress be wise to write limits into what it considered the scope and sweep of the interstate commerce clause?

Mr. BROMLEY. I have tried my best, sir, to draw a line that should go in this bill, and I am not smart enough to draw the line.

The only thing I can think of is that maybe you could take the community relations service and empower it with the authority possessed by the National Labor Relations Board to draw rules and regulations, and create exemptions, so that they could set up as an administrative matter, just the way the Labor Relations Board does.

Now we are not going to have anything to do with Mrs. Murphy or with barbershops, or with small boardinghouses or institutions. It's a perfectly practical way to do it. And it has worked very effectively in the labor relations field, and could be done here by a very minor amendment with the community relations service.

Senator MONRONEY. That has a limitation of number of employees within the company or business?

Mr. BROMLEY. Under the regulations of the Board, yes.

Senator MONRONEY. And in the Wage and Hour Act there is a provision which reverses the traditional movement in interstate commerce test which had heretofore controlled. Congress wrote a dollar figure, so that anyone selling a million dollars worth of goods was considered to be in interstate commerce.

Mr. BROMLEY. I don't like that one.

Senator MONRONEY. I do not wish to take up more time. I wish you could have had more time; or if questions are raised that need amplification, if you would favor us by submitting further information to us by message it would be appreciated.

Senator PASTORE. May I suggest this to the Senator from Oklahoma: Anyone who has a question he would like to pursue further with reference to the testimony given by this witness, discuss it with the members of the staff; they will reduce it to writing as a question. We will submit it to the witness, and if he cares to write us an answer he is at liberty to do so.

Mr. BROMLEY. I will be glad to.

Senator PASTORE. Would you cooperate in that respect?

Mr. BROMLEY. Yes, Senator.

Senator PASTORE. If there are any questions, take them up with the members of the staff so they can reduce it to a legal question.

Mr. BROMLEY. I am not sure I can answer them all, but I will try.

Senator PASTORE. If you will accommodate us one way or the other, or tell us you don't care to, that is your—

Mr. BROMLEY. Of course I care to.

Senator PASTORE. Any further questions?

Senator THURMOND. Mr. Chairman, I would like to question this witness for quite some time, but I am not going to ask him to come back because I know it would inconvenience him.

I would just like to ask: I believe you said in your opinion it would not cover a one-chair barbershop. Would it cover a 25-barber barbershop?

Mr. BROMLEY. It would certainly cover them if they were connected with a facility such as a motel or hotel that catered to interstate travelers, first. It might very well cover them if they were in Grand Central Station, although an independent barbershop; if they catered to a substantial number of interstate customers, or if they bought a substantial amount of goods in interstate commerce, it might cover a big barbershop.

Senator THURMOND. Of course all the barbers' hair tonic or brushes or material comes from other States, as well as the equipment they use.

Mr. BROMLEY. It depends on where they buy it.

Senator THURMOND. Would it cover a 20-barber barbershop?

Mr. BROMLEY. It might well.

Senator THURMOND. A 15-barber barbershop?

Mr. BROMLEY. Yes, it might.

Senator THURMOND. A 10-barber barbershop?

Mr. BROMLEY. Yes.

Senator THURMOND. Five?

Mr. BROMLEY. It doesn't make any difference how many barbers you have, but how great the impact.

Senator THURMOND. Who is going to determine that?

Mr. BROMLEY. The courts.

Senator THURMOND. Aren't you recommending that we pass a law that is going to allow the courts to legislate?

Mr. BROMLEY. I don't think so. Section 7 says—

Senator THURMOND. The court will have to determine it if we do not determine it in this law. The court will have to make that determination, would it not?

Mr. BROMLEY. They have to do it on practically every law that sets up a general legislative standard, my dear Senator.

Senator THURMOND. Of course there have been other laws passed by Congress that shouldn't have been passed. Should we follow that precedent?

Mr. BROMLEY. I don't see the difference between section 1 of the Sherman Act that prohibits restraint of trade, without definition, that you saw fit in 1890—I guess you weren't here then, in 1890, to pass that kind of law.

No, sir; I really mean that. I don't think Congress can get into the minutia of lines and standards such as I think you suggest, whether it is 15 or 14 men.

Senator THURMOND. Leave it to the courts?

Mr. BROMLEY. I am a lawyer. Leave it to the courts.

Senator THURMOND. They have taken it unto themselves whether we leave it to them or not.

Now I just ask you one other question. Time is so short. I would like to ask you many questions, if time permitted.

Mr. BROMLEY. Why don't we meet some night at dinner, at your expense?

Senator THURMOND. I would like to ask you this: Do you believe a man charged with a crime should have a right to a trial by jury?

Mr. BROMLEY. I do.

Senator THURMOND. How can you support this law when it provides no right of trial by jury?

Mr. BROMLEY. It depends on whether you are talking about a misdemeanor or felony. What part is that in?

Senator THURMOND. No right of trial by jury is provided in this bill.

Mr. BROMLEY. The Constitution guarantees a trial by jury, and if the nature of the offense—

Senator THURMOND. Exactly. I agree with you thoroughly.

Mr. BROMLEY. Yes, sir.

Senator THURMOND. And this bill provides no right of trial by a jury, and that is another reason I think it is unconstitutional.

That is all, Mr. Chairman. Thank you.

Senator PASTORE. Thank you.

Senator Holland has asked that Dr. Albert Garner be permitted to put his statement in the record.

Is there any objection?

The Chair hears none. It is so ordered.

(Statement follows:)

STATEMENT OF DR. ALBERT GARNER, PRESIDENT,
FLORIDA BAPTIST INSTITUTE & SEMINARY

Mr. Chairman, I am Albert Garner, president of Florida Baptist Institute & Seminary of Lakeland, Fla., editor of the Baptist Anchor, our State religious paper, and I have served as a member of Race and Civil Rights Committees of the American Baptist Association for the past 9 years. This association of churches consists of some 3,100 congregations with almost a million members.

I appreciate the privilege of appearing here to submit a memorandum and my testimony regarding the moral and religious implications of the proposed civil rights legislation upon the social pattern of life in our Nation.

First of all, on behalf of the Florida State Baptist Association of Churches, I submit the following resolution that was unanimously adopted in the annual State assembly in Jacksonville, Fla., July 19, 1963:

"RESOLUTION NO. 2, FLORIDA STATE BAPTIST ASSOCIATION, JACKSONVILLE, FLA.,
JULY 17, 1963

"We, the Florida State Baptist Association of Churches, believe civil government is the best on earth. We would remind you that the people called Baptists have historically been law-abiding and law-honoring people, under whatever form of government they found themselves in the world. We take pride in the fact that our people called Baptists have never been charged with or indicted as insurrectionists against any government.

"We believe that we have an inherent and divine obligation to our Government, as well as to our church, in matters relating to the social affairs of men. We believe in standing for our Government when we believe its decisions and actions to be right and when we believe them to be wrong. We disapprove of riots and insurrections in any form. However, we believe that our people have a divine and moral obligation to their God and to their country to use their influence in 'redress of grievance' to their Government, and to seek to influence the remolding and reversal of orders, decrees, decisions, and laws of their Government leaders when they believe them to be in moral error.

"For 9 years we have observed, with grave concern, efforts in our Federal Government to effect a drastic change in the established social pattern of life in the United States in general and in the Southern States in particular.

"Our sentiments are that the Negro should be afforded greater opportunities for achievement and encouraged to win respect for himself in public life. We have deep moral and religious convictions, however, that integration of the races is morally wrong and should be resisted.

"It is our finding that segregation was the social pattern of life of the Old Testament Hebrew people, long followed with much glory to their history. This social pattern was given and administered by divine command.

"It is also our finding that prior to this century neither the Hebrew religion, the Christian religion, nor any denomination of the Christian religion ever held that integration of the races into a close social pattern was necessary to obey God, to follow the teachings of Jesus Christ.

"It is further our findings that the philosophy of close social integration of the races, prior to this century, has been basically held and promoted by anti-Christian religions, atheists, and infidels.

"In the light of these findings, and in consideration of the evidence that our Nation became the greatest and most respected Nation in the world under the pattern of segregation in social life, and inasmuch as prior to this century segregation was accepted as a Christian philosophy by all Christian denominations, our people of the Florida State Baptist Association of Churches contend that moral principles never change. They believe that Federal efforts to force integration as a new social pattern of life is morally wrong, un-Christian, and in conflict with the word and will of God as well as historic Christianity. Our people do not accept in silence back home and will not accept at the polls, 'the segregation-be-damned attitude' they feel is now being pressed upon them by intimidation threats of Federal agencies."

I was in the party of ministers who appeared before the President of the United States in the White House on June 17, 1963. We heard his request and appeal that the American clergy form, in effect, a biracial committee for the specific purpose of using their influence to bring pressure to bear upon American businessmen to integrate their businesses and to seek to influence our U.S. Congressmen to support his proposed civil rights legislation.

Mr. Chairman, I felt that the President's actions in seeking to use the American clergy and the churches as agencies of political action was inappropriate and in conflict with his previously announced position that he believed in the separation of church and state. I indicated my convictions at the meeting on that occasion.

During the past 10 months, I have been on the campuses of some 15 colleges and universities, Bible institutes, and seminaries from our Nation's Capital to Sacramento, Calif., and have talked at length with students and teachers in these institutions, as well as to businessmen, common laborers, and people of all walks of life, regarding the proposed new social order for which the President appeals.

Mr. Chairman, our constituency of nearly 1 million people, comprising the American Baptist Association, holds the religious concept that "God is the Father of all men," only in the sense that all bear His image and are objects of His concern. In matters that relate to the salvation of man, God is partial to no race. However, both the Old and the New Testaments indicate that segregation of the races in social, business, and religious life is of divine origin and was administered by divine decree accompanied by divine blessings. We hold that moral principles never change and that segregation of the races in social and religious life is still of divine order.

Further, we hold that human and civil rights are of divine origin and limited in their just exercise to certain divine restrictions. That human and civil rights have divinely appointed limitations and restrictions in social affairs of life, has been held generally by both the Hebrew and Christian religions for more than 2,000 years prior to this century.

Gentlemen of the committee, involved in the proposed civil rights legislation, as it has been proposed, is a grave moral and religious principle that indicates a conflict of moral and social philosophies. The issues which appear to be involved in the proposals under consideration have serious moral and religious implications. They involve a moral clash of the historic Hebrew and Christian religious concepts on social and business affairs with atheistic and anti-Christian religious concepts.

For instance, both secular and religious history attest that: (1) For more than 1,000 years, during the golden era of the Hebrew civilization, segregation of the Hebrew race in social, business, and religious life was practiced by divine

decree and with much success, (2) prior to this century, for nearly 1,900 years, Christianity and every denomination of it held to the moral and religious position that segregation of the races was of divine order and such was accepted and promoted as a social, business, and religious pattern of life until recent years, (3) prior to this century, integration of the races as a social pattern of business and religious life was advocated by atheistic and anti-Christian religions and societies only. Our Nation and our society was not built on this philosophy.

In the light of these things, gentlemen, we observe with grave concern that the President's proposed civil rights legislation appears to be an embodiment of proposed social reforms based upon anti-Christian and atheistic social philosophies.

For instance, in the President's civil rights message of June 19, 1963, page 2, he stated: "Race has no place in American life or law." This is a flagrant affront to the social facts of life in this country. That destruction of races and the elimination of all separate racial distinctions should be legislated out of recognition in the American way of life and law is an atheistic concept.

Upon the atheistic premise that "race has no place in American life or law" we decry the President's repeated expressions of approval of the rights of American citizens to join in mob demonstrations that breed tension and violence and trespass upon property rights of individuals. We fear that the President's sanction of these continued demonstrations of minorities with disregard for majorities may create a condition of insurrection in our country conducive to a police state. We feel that the President of the United States is showing favoritism and partiality to minority groups in our Nation who hold to ideologies that are basically un-American and that consideration of adoption of any part of this proposed civil rights bill should be approached with much caution.

Mr. Chairman, I should like to register disagreement with the integration views of Dr. Carson Blake, of the National Council of Churches, Rabbi Erwin Blank, and Father John Cronin who gave testimony before this committee on Wednesday, July 24, 1963, in which the gentlemen took the position that segregation of the races, which they termed "racism," in social and business life was both immoral and blasphemy against God. If such a statement were true, and if segregation which they refer to as "racism" in social, business, and religious life, is immoral and blasphemy against God our Founding Fathers and the fathers of these gentlemen were, by their own testimony, immoral men and blasphemers against God, because this position was held to be a Christian philosophy by all denominations of Christianity prior to this century.

Mr. Chairman, I submit to you that the testimony given by these three gentlemen before this committee on July 24, 1963, is a classic example of apostate Christian and Hebrew concepts, designed to revolutionize and remold the social, economic, business, and religious life of America along the lines of a new social order of atheistic and anti-Christian religious views.

We also register our disapproval of ministers in joining street demonstrations that tend to promote mob violence, and trespass upon, and sabotage of, private properties. We consider such conduct under ministerial garb to be a form of circus clowning demagogery below the dignity of the gospel ministry, to be viewed with suspicion and testimony of such ministers should be cautiously trusted.

We would not deprecate the right of these ministerial gentlemen to express their religious sentiments before this committee, but we do deplore their doing so under the cloak and claim of representing the Biblical and historic Hebrew and social integration philosophy, which they espouse, is one that was never held and Christian position. Because the evidence of secular and religious history certifies that the social integration philosophy, which they espouse, is one that was never held widely by either Hebrew or Christian religions prior to this century, nor do we believe their expressions are the basic moral and religious convictions of the majority of American citizens today.

It is the general feeling of our people of the American Baptist Association, both in the North and in the South, that our President and Congressmen should use their influence to uphold the Constitution and its provisions of human, civil, and property rights as they relate to free enterprise and competitive businesses. We hold that individual human, civil, and property rights involve the freedom of choice for the employer in a private business to discriminate in selecting whom he shall serve or employ, when he shall serve or employ, and under what conditions he shall serve and employ, as surely as the customer or employee shall determine whom he shall patronize or serve, when he shall patronize or serve, and under what conditions he shall patronize or serve a business or

employer. This is a basic human and civil right embodied in and historically followed as a constitutional policy in social and business conduct under the free enterprise and competitive business system.

We believe the proposed civil rights bill is in flagrant conflict with this concept and that proposals for additional powers for the Attorney General to prosecute and intimidate in connection with the education-integration element of the bill tends toward gestapo tactics of a police state.

We fear that such a bill if enacted would be used by the administration in threats and reprisals against businesses and cities throughout the Nation and that the bill expresses prejudicial favoritism and partiality for minorities at the expense and danger of the loss of freedom for all citizens. This program would, we believe, obstruct business expansions, shackle free enterprise, and intimidate many owners of private property while affording advantage and partiality for a minority. We also feel that such legislation would create racial tensions and hate in religious life that would bring havoc in our churches.

It is my conviction that there is a moral degeneracy and apostate religious deviation from a high moral social pattern of American life toward racial infidelity. In the light of basic historic Christian concepts, it is my prayer that you gentlemen will weigh well this review and evaluation of the conflicting philosophies underlying the problems of the present racial crisis.

Senator THURMOND. Mr. Chairman, Mr. Garner is here. Would you please stand sir? We wanted to hear him, and we don't have time now. His statement will be included in the record.

Mr. GARNER. Thank you.

Senator THURMOND. We are glad to have you with us, Doctor. I am very sorry we didn't finish sooner so you could testify.

Senator PASTORE. This hearing will now come to a close. The record will remain open, as I announced yesterday, until 5 o'clock Tuesday next; that is August 6, I believe, and thereafter the committee will meet in executive session upon order of the chairman, whom we expect to return to us after his recent illness.

Thank you very much.

(Whereupon, at 12 o'clock noon the committee was adjourned.)

U.S. SENATORS, GOVERNORS, AND PROFESSORS OF LAW

STATEMENT OF HON. JOSEPH S. CLARK, U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

I am grateful to the chairman and the membership of the Senate Commerce Committee for granting me this opportunity to express my strong support for President Kennedy's bill banning discrimination in public accommodations, S. 1732.

No one whose skin is white can know the bitter humiliation a Negro feels when he is turned away from a restaurant, a motel, a theater—simply because he is a Negro. I find it hard to imagine an insult more calculated to produce embarrassment and a sense of inferiority.

Yet millions of Americans are forced to accept these indignities as a fact of life, and to suffer the innumerable daily hurts that are the poisoned fruit of the tree of racial prejudice.

It is a source of deep shame to me that the political system to which I owe allegiance has so long condoned the hateful and vicious practice of racial discrimination by businesses offering public accommodations in interstate commerce. Obviously, no bill which we pass now can right the many wrongs which we have permitted to be done in the past. But S. 1732, of which I am proud to be a cosponsor, can at least insure, for the future, that those who do business with the general public will carry on their businesses without creating invidious distinctions between American citizens.

Some concern has been expressed over the fact that this bill does not contain an exemption for small businesses. In my view, there can be no logical or ethical basis for distinguishing between businesses on the ground of size. No business,

no matter how small, which offers public accommodations in interstate commerce, should have the right to insult and humiliate Negroes by refusing them service. The smallness of the enterprise neither justifies nor mitigates the offense.

I think it is abundantly clear that the administration shares this view, and will resist any attempt to place a "floor" under the operative provisions of this bill. Any doubts about the administration's position on this matter ought certainly to have been dispelled by the testimony which the Attorney General gave before this committee on July 1. Members of the committee will recall that he said:

"We intentionally did not make the size of a business the criterion for coverage, because we believe that discrimination by many small establishments imposes a cumulative burden on interstate commerce. It may be that Congress will want a sharper definition and, if so, we would be glad to work with the committee. But if this is done, I believe it should be to sharpen definitions rather than to create loopholes or water down the bill."

I strongly second the Attorney General's statement, and I urge the committee in acting upon this bill not to create loopholes or water it down.

STATEMENT OF HON. HUBERT H. HUMPHREY, U.S. SENATOR FROM THE STATE OF MINNESOTA

Mr. Chairman, I would like to compliment you and your committee for the diligent, fair, and comprehensive examination of S. 1732. All sides have been given full and fair opportunity to voice their opinions to the Congress. All positions have been set forth for your careful consideration.

The significance of your work and the importance of this portion of the civil rights bill cannot be overestimated. The eyes of the country and of the world have been centered on this committee during the weeks of these hearings. The bill that you report to the Senate will reflect, I am sure, the dedication of your labor.

A great deal of time has been expended in attempting to determine the efficacy and constitutionality of basing the public accommodations section of the administration's civil rights bill on the Commerce Clause (art. I, sec. 8) rather than on the 14th amendment to the Constitution.

As far as the efficacy of this particular bill is concerned, some of those who have testified before this committee have contended that prejudice and intolerance cannot be legislated against and that it makes little difference, therefore, whether this bill passes or not. They say that it will not be easy to erase the memories of centuries of custom and that attempting to impose a solution from outside will merely exacerbate the situation. I agree that there is no easy or entirely pleasant way in which to change the mores and customs of a nation. This difficulty should not deter us.

It was not easy to colonize this country; nor to establish our Constitution; nor to defend the freedom of our seamen; nor to abolish slavery; nor to make the world "safe for democracy"; nor to oppose Nazi racism and tyranny; nor to conduct a cold war. We have done those things, though, either through necessity or because we thought they were right.

There are those that contend that those battles entitle us to self-righteousness and repose. They contend that we have achieved perfect democracy and need fight no more difficult contests. Some want to know why we cannot leave this problem of inequality alone and stop filling the Negroes with "dangerous ideas." It is my contention that God filled man with the desire to be free and that there is very little that we here in Congress can do to counteract it. Freedom and equality are the birthright of every American. We cannot give or withhold it from any one, or any class, or any race. These ideas of equality and opportunity are heady brews. The Founding Fathers drank deep and we can still intoxicate the world with their dreams. Abraham Lincoln let American Negroes taste of the cup 100 years ago; now it must go fully round.

There will be opposition to legislation requiring the sharing of this right of equal access. Basing this bill on the Commerce Clause will not make it more popular than any other means. I am convinced, though, that it will be effective and that such a decision can be logically grounded on precedent and experience. I wish that no action were necessary on this subject; I would prefer that every State would equitably solve its own racial problems; recent events make it painfully clear that that is not the case.

However, since there has been considerable debate among those sincerely interested in seeing a meaningful bill over whether we should rely on the Commerce Clause or the 14th amendment, I support the suggestion that the bill be based on both. There is ample precedent for this, the Tennessee Valley Authority, for example, was based on three constitutional powers. I believe that the Supreme Court would uphold the constitutionality of this public accommodations provision if we relied upon both the Interstate Commerce Clause and the 14th amendment. My reasons for so thinking are based on Supreme Court decisions concerning the 14th amendment, the Commerce Clause, and our common law heritage.

I believe that many of those who contend that this bill is revolutionary would find, through reference to history, that this is not the case. The principle of free public access to business establishments is rooted deep in the Anglo-Saxon law. Throughout the 13th century, and for hundreds of years thereafter, the duty to serve all who come to public establishments was covered by criminal statute. Reference to legal precedent will reveal that even in the South it was common practice to serve all who might come. Unfortunately, after the *Civil Rights Cases* of 1883, many laws were passed which denied this right to some. This was a departure from accepted practice and custom.

Interestingly enough, in those decisions of 1883 the Supreme Court specifically referred to those powers obtaining to Congress under the Commerce Clause:

"Of course, these remarks do not apply to those cases in which Congress is clothed with direct and plenary powers of legislation over the whole subject, accompanied with an express or implied denial of such power to the States, as in the regulation of commerce * * * among the several States * * *. In these cases Congress has power to pass laws for regulating the subjects specified in every detail, and the conduct and transactions of individuals in respect thereof."

More recently, the Court's findings in the case of *Wickard v. Filburn*, in which the former's action, though "indirect" and "trivial," was held to be illegal, and *NLRB v. Reliance Oil*, where it was decided that the restrictions of the Commerce Clause applied even though the oil in which Reliance was dealing had come to rest within the State prior to its purchase by them, indicate clearly the opinion of the Court on the "reach of Congress" in relation to the regulation of interstate commerce.

The fact that the Supreme Court, in 1883, held some civil rights laws based on the 14th amendment unconstitutional should not deter us, in 1963, from also basing this legislation on that amendment. Recent decisions, like the restrictive covenant cases, *Shelley v. Kraemer*, and the Delaware restaurant case, *Burton v. Wilmington Parking Authority*, indicate that the present Supreme Court views the 14th amendment from a perspective considerably removed from the one which existed in 1883. These decisions, as well as the other epochmaking actions of the Court in the field of civil rights, lead me to conclude that the 1883 *Civil Rights* decisions may well be overruled in the same manner as *Plessy v. Ferguson* was overruled in 1954.

There is nothing unique or potentially threatening to our liberties in the letter or intent of this bill. It only requires that those who have practiced discrimination against customers, purely as a matter of racial prejudice, will be required to extend the right of access and service to all. To the vast majority of Americans there is no question about the reasonableness or rectitude of this requirement. As an example of national opinion on this issue, it should be noted that 31 States have already, voluntarily, enacted public accommodations laws. And despite the fact that some of these laws have been far more stringent than the measure we are here considering, there has been no evidence of the economic and constitutional disasters conjured up by opponents of this bill. In some of the 19 States not having equal accommodations statutes, the business community is restrained by State law from opening its doors to all customers. Such laws, I should add, are clearly proscribed by the 14th amendment. I am sure that many businessmen in those States would welcome the opportunity to serve this large market which is presently barred to them, especially if they could cite law and uniform practice as their reasons for so doing.

Finally, in reply to the assertions and implications I find hardest to understand and countenance, I would like to comment on the remarks which have attempted to link this honest effort to give constitutional rights to Communist influence.

My contention has always been, and remains, that the most effective way which we can combat communism is to demonstrate positively the superiority of our free enterprise system. Segregation is obviously an impediment to us in this contest. The communists are desirous of fomenting discord on this subject only so long as we do nothing about the situation. As we act to eliminate areas of discrimination and thus strengthen our democracy, we also progressively reduce the number of situations available to Communist propagandists in their campaigns of ridicule. Therefore, even if the weight of moral and philosophical rectitude were not on the side of this measure, I would still say that it is mere sophistry to contend that the exposure of this problem aids the Communists. The solution of the civil rights crisis will be a historic setback to the Communists throughout the world.

The very essence of this bill is antiCommunist and anticollectivistic. Its *raison d'être* is the stimulation of private enterprise and the freer distribution of the products of a free society, produced by free businesses.

STATEMENT OF HON. DANIEL K. INOUE, U.S. SENATOR FROM THE STATE OF HAWAII

As one of the cosponsors of this bill, I am pleased to make a statement in support of it. The necessity of guaranteeing the civil rights of all American citizens has captured the imagination of the entire country, and made it a paramount issue in this session of Congress.

The bill to eliminate discrimination in public accommodations, S. 1732, hits directly at one of the most basic issues of the current civil rights crisis. Although questions of equal opportunities to vote, to get a good job, to live in a decent neighborhood, and to go to a good school are all important aspects of the civil rights problem, it is in such places of ostensible public accommodation as segregated restaurants, segregated theaters, segregated hotels, segregated department stores, and segregated lunch counters that the daily insult of discrimination is imposed upon minorities.

There has been a great deal of debate about whether or not this bill is constitutional. Far too little has been said about whether or not it is right. As far as I am concerned the right of all Americans to use public accommodations equally is perfectly self-evident. I know the vast majority of Americans also feel that this is self-evident. A recent poll published in the Washington Post shows that 74 percent of Americans felt that the Federal Government should guarantee the right to use public accommodations to all citizens.

In this issue, human rights are paramount, not States' rights or property rights alone. When we talk about States' rights we forget that they have no value as an end, but only as a means of protecting personal rights, supposedly against the Federal Government. As a Senator from a small and isolated State I am certainly concerned about States' rights, and I voted to preserve rule 22 because I felt that this was a necessary protection for States' and minority rights. I think, that it would be far better if the States and localities were willing to take the necessary action to prevent discrimination. The record of recent years clearly indicates, however, that some of our States simply are not willing to protect these basic human rights. If the States default, then the Federal Government must act.

The apparent conflict between property rights and human rights may have been overdrawn in some quarters. Property is valuable only because it is useful in the pursuit of happiness. The right of property is not an absolute one, and we have long recognized that property rights, if they are used for coercion or to destroy freedom, must be limited. The Sherman Act is just one example of how property rights have been so limited. Western history is replete with such controls over property.

This bill applies only to those businesses which profess to serve the public convenience. I do not think it is such a terrible imposition to ask these businessmen to serve everyone, regardless of personal preference.

Of course these preferences are based on attitudes, and it is a truism to say that we cannot legislate attitudes or morality. Everyone knows this. But the Government can make certain that these attitudes and moral beliefs do not result in actions which are extremely insulting and degrading to minority groups. That is all that this bill does.

Furthermore, although the State cannot make men moral, it can do much to create social conditions in which they are able to develop a responsible moral character for themselves.

With regard to the constitutional question, lawyers who are a great deal more skillful than I have argued that an approach based on either the 13th amendment or the Commerce Clause, or both, would be constitutional. I am much more concerned that we should pass the strongest possible bill and that this should be done by both parties, united in a common effort to guarantee civil rights. There is no room for partisanship in this issue, for both parties must be vitally concerned with making certain that the philosophy that " * * * all men are created equal * * *" remains the philosophy of our great Nation.

STATEMENT OF THOMAS J. MCINTYRE, U.S. SENATOR FROM THE STATE OF NEW HAMPSHIRE

Mr. Chairman and members of the Committee on Commerce. I am grateful to you for this opportunity to offer my support for S. 1732, which I am very proud to cosponsor.

I have little to add of a general nature to the excellent testimony the committee has received on the merits of S. 1732, other than to state that the clear dictate of my own conscience compels me to support this move toward justice for all citizens of the United States.

I would like to draw the committee's attention to one objection which has been made by the bill's opponents. This is that if S. 1732 becomes law, many proprietors of small places of public accommodation will be forced to accept members of minority groups and will thus lose the patronage of old and valued customers who, it is claimed, will not want to associate with the new patrons.

The experience of the State of New Hampshire with its law prohibiting discrimination in places of public accommodation shows that this objection is without merit.

Our State law, chapter 854 of the New Hampshire Revised Statutes Annotated, goes well beyond the bill presently before this committee in its coverage of places of public accommodation and in the penalty which it provides for violation. Chapter 854 is not restricted in its operation to establishments of a given size, or any other standard, but includes all places of public accommodation as defined by the statute, a copy of which is set out below. Violators of chapter 354 are subject to criminal penalties.

New Hampshire prides itself on being a vacation State. Recreation is one of our largest industries. The beautiful countryside of New Hampshire is dotted with hotels, inns, and restaurants which serve travelers from all over the United States. Every one of these places of public accommodation falls under the mandate of chapter 354. And yet I have never heard of, nor received a complaint from, any proprietor of a New Hampshire place of public accommodation who could show that he had lost patronage because he was compelled by State law not to discriminate on the basis of race, creed, color, ancestry, or national origin.

It is in light of this fact that I feel that many of the opponents of S. 1732 are misinformed as to the actual effect which the bill will have when passed. Chapter 854 of the New Hampshire Revised Statutes Annotated has been in effect in its present form for 2 years and the difficulties which were predicted before its passage have never materialized. I might point out that passage of chapter 354 was a bipartisan effort and both the Republican and Democratic Parties worked in its behalf. The bill was supported by the leading citizens of my State.

I would like to conclude this statement with a quotation from the publisher of a New Hampshire newspaper who testified against S. 1732, Mr. William Loeb, publisher of the Manchester (N.H.) Union Leader.

Back on June 8, 1933, Mr. Loeb stated in a signed editorial that he would fight for the passage of a State antidiscrimination bill. He stated:

"For Americanism is not just a fine phrase. It is a question of practicing what our Founding Fathers preached. Basic in these American principles is the concept that all men are created equal and are entitled to equal treatment before the law and by their fellow men, regardless of race, creed, or color."

New Hampshire's General Court answered this need in 1901. It is time for the Congress to do the same.

[Excerpt from ch. 354, New Hampshire Revised Statutes Annotated (1961)]

"DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION

"354:1 Discrimination. No person shall directly or indirectly discriminate against persons of any race, creed, color, ancestry or national origin, as such, in the matter of board, lodging or accommodations, privilege or convenience offered to the general public at places of public accommodation or in the matter of rental or occupancy of a dwelling in a building containing more than one dwelling.

"354:2 Definition. A place of public accommodation, within the meaning hereof, shall include any inn, tavern, or hotel, whether conducted for entertainment, the housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest, any restaurant, eating house, public conveyance on land or water, bathhouse, barbershop, theater, and music or other public hall."

"354:4 Penalty. Whoever violates any provisions of sections 1 or 3 shall be fined not less than \$10 nor more than \$100."

STATE OF MONTANA, OFFICE OF THE GOVERNOR,
Helena, July 2, 1963.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I am happy to reply to your letter of June 28 and to tell you that we have no problems of this nature whatsoever in Montana. Therefore, I feel unqualified to give you a comment on civil rights legislation which I know is of serious concern to other States.

Kind personal regards,

TIM BABCOCK, Governor.

STATEMENT OF GOV. EDMUND G. BROWN, OF CALIFORNIA, ON S. 1732

Thank you for this opportunity to present testimony in behalf of President Kennedy's Civil Rights Act of 1963 and the Interstate Public Accommodations Act of 1963, S. 1732.

As the most populous State in the Nation, California has a deep interest in this legislation. We have a cosmopolitan population; with representatives of virtually every minority group in the Nation: an estimated 1,600,000 Mexican-Americans, 1,000,000 Negroes, 800,000 orientals, and other minorities.

As Americans, we have another, more basic interest—to secure for everyone the fundamental guarantees of freedom and equality provided by the U.S. Constitution and, specifically, the 14th amendment.

As long as one American is denied any one of those rights none of us can rest easy, for the rule of law, which is the keystone of our democratic system, is based squarely on the principle of equal treatment. Today, millions of our citizens are engaged in a struggle to secure equal rights under the law. That many are denied those rights is no longer arguable. The blood being spilled in our city streets in peaceful demonstrations is evidence enough.

The columns of our newspapers daily present their testimony in bleak, simple terms: citizens denied their voting rights, discrimination in employment, refusal to serve, segregated schools, segregated housing. The cases pile up in sordid profusion in every State in the Nation, and no sane American can deny the righteousness of the grievances.

Recent witnesses before this committee, while not denying the existence of violations of civil rights, nevertheless have attempted to defend the systematic suppression of them.

They have said that property rights take precedence over human right and second, that the social revolution now shaking our Nation is a Communist plot. Both of those assertions belong in the same category. They are patently nonsense and without basis of fact. This issue is not property rights versus human rights. The American system recognizes and protects both.

Nevertheless, this Nation was not founded on the principle that those with power, money, and property shall rule those who have none. It was to escape such oppression that our forefathers came to America, founding a nation on the truths "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." A bloody Civil War irrevocably settled the issue of the precedence of human and property rights in our society. That the struggle to achieve those human rights still goes on—here and all over the world—is not an argument that property rights are superior, it is a tragic admission only that man is not yet free.

It is to our shame that some Americans call that struggle Communist inspired. Is the right to vote Communist? Is the right to equal opportunity in employment un-American? Are integrated schools the work of Moscow plotters? They are not, of course. Long before the foolish doctrine of communism was laid down our Constitution had spelled out the rights of American citizens. Those rights are inimical to communism, a fact to which hundreds of millions of oppressed people living behind the Communist curtains, denied both property and human rights, attest daily.

If Communists support the struggle of Negroes and other minorities in 'his country, they do so for only one reason: for world propaganda in support of their own false dogmas. And those who link our social revolution to the Communist revolution serve the Communists, not America.

The State of California rejects both notions that property rights have precedence over human rights and that the fight to achieve civil rights is a Communist plot.

Further, we reject the contention that property rights and human rights are mutually exclusive or that property rights are damaged in the exercise of human rights.

It has been argued by some witnesses before this committee that property owners are deprived of their "rights" by the proposed legislation. But the only "right" which is being taken away—if that expression can be used at all—is the "right" to commit a wrongful act—to discriminate—to deny someone service, or the use of public facilities, because his skin is a different color or for reasons of religion, ancestry, or national origin. To defy the U.S. Constitution is not a "right" which any citizen should be allowed to invoke with impunity.

California's long experience with laws protecting civil rights has proven beyond doubt that there is no incompatibility between human and property rights. California's high standard of living for all classes of society is the best evidence of that truth.

Our State constitution establishes the same basic human rights provided by the Federal Constitution, those of life, liberty, and pursuit of happiness and the freedoms of speech, religion, press, and judicial processes.

Very early in our history those constitutional guarantees were spelled out in legislation and court decisions, eliminating segregation in schools and making it illegal for businesses to discriminate in offering public accommodations.

By 1872, the State had placed sanctions on innkeepers and carriers who practiced discrimination. In 1893 and in 1897, the legislature expanded those sanctions to include numerous other public accommodations, and in 1906 the basic legislation was codified. Sections 51 and 53 of the civil code spelled out the State's public policy with respect to discriminatory activities by business. These sections, in force until 1959 when an even more comprehensive law was passed, were as follows:

"All citizens within the jurisdiction of this State are entitled to the full and equal accommodations, advantages, facilities, and privileges of inns, restaurants, hotels, eating houses, places where ice cream or soft drinks of any kind are sold for consumption on the premises, barbershops, bathhouses, theaters, skating rinks, public conveyances, and all other places of public accommodation or amusement, subject only to the conditions and limitations established by law and applicable alike to all citizens.

"It is unlawful for any corporation, person, or association, or the proprietor, lessee, or the agents of either, of any opera house, theater, melodeon, museum, circus, caravan, race course, fair, or other place of public amusement or entertainment, to refuse admittance to any person over the age of 21 years, who presents a ticket of admission acquired by purchase, or who tenders the price thereof for such ticket, and who demands admission to such place. Any person under the influence of liquor, or who is guilty of boisterous conduct, or any person of lewd or immoral character, may be excluded from any such place of amusement."

For 54 years Californians lived under and abided by those laws. And in that period we grew to be one of the largest States in the Nation, absorbing the largest mass migration of people in the history of this country.

To our boundaries and shores came millions of Americans—Negroes, Mexican, Japanese, Chinese, Irish, German, and second and third generation Americans from every State in the Union, including many southerners. They came, lived together, accepted our laws, and prospered.

To further strengthen public accommodations statutes, the legislature in 1959 passed the Unruh Civil Rights Act. It states:

"All citizens within the jurisdiction of this State are free and equal, and no matter what their race, color, religion, ancestry, or national origin are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever."

The key words, extending coverage of nondiscrimination, are "in all business establishments of every kind whatsoever."

The California Supreme Court last year upheld the constitutionality of the Unruh Act in a landmark decision which held that "reasonable restrictions may be placed upon the conduct of any business and the use of any property" by the State.

In the past those "reasonable restrictions" have extended to safeguarding the public health—a human right—against smog and dangerous chemicals; to monopolistic practices, zoning, labor relations, and many other areas.

With respect to our laws governing nondiscrimination by business establishments in public accommodations, relief is available through civil action. Negroes and other minorities still suffer indignities from covert discrimination in California, as they do everywhere, but overt discrimination in public accommodations is clearly illegal and rarely resorted to. The custom of equality is replacing the need for legal redress.

And there has been no violation of due process in the enforcement of such regulations. Indeed, businessmen everywhere have joined in seeking many of the very laws which have established the precedence of human rights.

Like the earlier statutes, the Unruh Act has produced only isolated court actions, virtually no protests by business as being unduly repressive and no demands for loosening its provisions.

California's success with its own public accommodations laws and other anti-discrimination measures is not to suggest that Federal legislation in the field of civil rights is not needed. On the contrary, there are compelling reasons why S. 1732 and other laws are needed now:

First, and paramount, is the great moral effect of a broad Federal statement on civil rights. Such a statement by our Government would bring down the barriers of discrimination, not just in the South, but in every State of the Union. The Supreme Court decision on schools 9 years ago was the first wave. The Civil Rights Act of 1963 can be the second wave.

Second, in traveling to other States, Californians are entitled to the protection of Federal laws governing civil rights. They do not receive that protection now. Motels, restaurants, and other public accommodations are closed to Negroes, Mexican-Americans, and others in many States, an insult and denial of their rights which are protected by law in California. The Constitution does not permit States to invoke discriminatory tariffs against citizens from other States; why should any State be permitted to penalize a citizen of another State in other clearly unconstitutional ways?

Third, denial of the right to vote, disfranchising millions of Negroes of the South, distorts our representative form of government. If all of its population determines a State's representation in Congress, then all of its citizens must be allowed to vote. As the largest State in the Nation, California bears the biggest share of the burden of wrongful representation.

Fourth, the systematic oppression of the Negro and other minority groups, their undereducation, and their denial of equal employment opportunities are producing heavy economic burdens on our society, not just in the South, but in all of the Nation's larger cities where there are concentrations of minority groups. Unemployment, disease, crime, and poverty are the bitter harvest of segregation and discrimination. No large city is free of it. Every citizen is paying the penalty for it in higher taxes and lower incomes.

California and Northern States, which now are receiving large numbers of southern Negro immigrants, bear a special burden. Poorly educated and unskilled, many of these men and women are not equipped to meet the problems of

our highly technical, urban society. Failing to find work, unable to cope with their new surroundings, they soon fall on our relief rolls, demoralized and broken in spirit.

To meet this growing problem of Negro unemployment and undereducation, President Kennedy recommended ways for improving our economy to provide more jobs, aid to education, and special manpower development and training programs, all of which I support.

In addition, I recommended extension and strengthening of the Committee on Equal Employment Opportunity. The urgent need for this organization is clearly evident in a situation brought to light recently in San Francisco.

At the Naval shipyard, at Hunter's Point, an examination of promotion practices revealed that in 21 years a Negro worker has never been advanced beyond the first promotional step. The ratio of nonwhite supervisors is 1 in 140. If this is not de facto discrimination, then I have never seen a case of it. This is a Federal installation. Federal assistance is required to deal with it.

CONCLUSION

I am not one of those who believes the Federal Government must bear the entire burden of solving this Nation's minority group problems. States, counties, and cities must share the responsibility.

California has a good record in meeting its problems. Four years ago, we created this State's first Fair Employment Practice Commission. In that period, the commission processed 2,600 complaints, only 3 of which had to be taken to a public hearing. All other cases, where discrimination was found to exist, were settled by conciliation. This record is a magnificent testimonial to the efficacy of a well-conceived Government program and proof that discrimination in employment is susceptible to treatment without resort to court suits and direct action by the victims.

Four years ago, we also passed our first legislation to eliminate discrimination in housing. This year a new, broader measure was enacted, with enforcement provided by an enlarged Fair Employment Practice Commission.

In addition, we have a program to work toward eliminating de facto segregation in schools, a growing problem in metropolitan centers where high concentrations of minority groups have produced segregated school districts.

In June of this year, the State supreme court ruled that school districts must take affirmative steps to correct de facto segregation which results from closely controlled neighborhood school district boundary lines.

I take the view that all governmental entities should adopt policies covering both nondiscrimination and affirmative measures to correct cases of de facto discrimination. That has been State policy for many years.

Our success with conciliation in operation of the Fair Employment Practice Commission and the success of many private organizations using the same technique suggests that President's Kennedy's proposal for a Community Relations Service would be most useful. Similar groups have been operative in California for many years and have proved that moral suasion is a powerful force in ameliorating race relations problems.

It is clear that we now need a broad attack on all fronts if we are to achieve the promise of equality in our Declaration of Independence and Constitution for all of our people. The Negro, the Mexican-American, and other minority groups no longer can be put aside with the words, "wait a little longer." History has shown that "wait a little longer" really has meant "never." Our minority citizens say they have waited long enough for their right to vote, for an equal chance to work, for freedom from segregated housing and schools.

It is time for all Americans to lay down the cudgels of discrimination and once again pledge our consciences and hearts to the principle of brotherhood which is the foundation of both our religious and democratic beliefs.

ADDENDA TO GOV. EDMUND G. BROWN'S STATEMENT TO THE SENATE COMMERCE COMMITTEE HEARING ON THE CIVIL RIGHTS ACT OF 1963 AND S. 1732

For the record, I would also like to submit the text of a petition which I circulated at the Governors' conference in Miami Beach during July. Twenty-eight Governors signed the petition which calls for Federal action along the lines of the President's Civil Rights Act of 1963. Following is the text and list of Governors who signed the petition:

"We, the undersigned, believe the rights of Americans guaranteed by the U.S. Constitution are not divisible or a proper subject of partisan controversy.

"We believe in Federal action to implement the Constitution in the areas of voting rights, education, and equal access to public facilities, and to lay a foundation for action by the 50 sovereign States.

"We support the measures now before the Congress which would achieve these goals in the firm belief that they represent an important restatement of the guarantees of equality and dignity of the individual which has made this Nation great."

Gov. Edmund G. Brown, California.
 Gov. John Dempsey, Connecticut.
 Gov. William A. Egan, Alaska.
 Gov. John A. Burns, Hawaii.
 Gov. Otto Kerner, Illinois.
 Gov. Endicott Peabody, Massachusetts.
 Gov. George Romney, Michigan.
 Gov. Harold E. Hughes, Iowa.
 Gov. Matthew E. Welsh, Indiana.
 Gov. Bert Combs, Kentucky.
 Gov. Grant Sawyer, Nevada.
 Gov. John H. Chafee, Rhode Island.
 Gov. Jack M. Campbell, New Mexico.
 Gov. Mark Hatfield, Oregon.
 Gov. Karl F. Rolvaag, Minnesota.
 Gov. Frank B. Morrison, Nebraska.
 Gov. William L. Guy, North Dakota.
 Gov. John H. Reed, Maine.
 Gov. Philip H. Hoff, Vermont.
 Gov. Albert D. Rosellini, Washington.
 Gov. William Wallace Barron, West Virginia.
 Gov. H. Rex Lee, American Samoa.
 Gov. John W. King, New Hampshire.
 Gov. Manuel F. L. Guerrero, Guam.
 Gov. John M. Dalton, Missouri.
 Gov. Ralph M. Palewonsky, Virgin Islands.
 Gov. Richard J. Hughes, New Jersey.
 Gov. John W. Reynolds, Wisconsin.

EXECUTIVE CHAMBERS,
 Honolulu, July 8, 1965.

HON. WARREN G. MAGNUSON,
 Chairman, Committee on Commerce,
 U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: This is in reply to your gracious and welcome invitation to comment on S. 1732, the public accommodations civil rights bill.

Although our State is singularly free of racial discrimination, which in other areas has reached proportions of a major domestic issue, I am heartily in support of the proposed legislation, and am pleased to note that Senator Inouye of Hawaii was among the signatories.

It is quite obvious to me that voluntary action on the part of owners, management, and members of the various establishments and organizations referred to in S. 1732, will not produce the remedy to which victims of discrimination are entitled, without the compelling influence of the proposed legislation.

As desirable as it may have been, and still may be, to eliminate this ugly blemish on our Nation's record and reputation for equality under the law and for recognition of individual rights, it is apparent that gradualism has indeed become too gradual.

While Federal legislation of the sort proposed may be distasteful to some of the States, I believe the increasing mobility of our citizenry underscores the necessity of making our Nation "one nation under God," in fact as well as in lipservice to this basic creed.

I believe the proposed law will strengthen the moral fiber of our country because it will say to the world and to the affected citizens of our country this is not merely what we say we believe, this is the law of our land.

With warm personal regards. May the Almighty be with you and yours always.

Sincerely,

JOHN A. BURNS.

STATE OF DELAWARE,
EXECUTIVE DEPARTMENT,
Dover, July 11, 1963.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: Thank you for your letter of June 28, 1963, concerning the hearings on S. 1732.

Enclosed is a copy of senate bill No. 183 introduced in the present session of the Delaware General Assembly. This measure has the wholehearted support of our administration, has been passed by the senate, and is now awaiting house consideration.

I believe this should adequately express our views on the need for equal public accommodations legislation.

Cordially yours,

ELBERT N. CARVEL,
Governor.

Senate Bill No. 183

AN ACT Amending Title 6, Delaware Code of 1953, by protecting the public welfare, entitling all persons to full and equal accommodations, facilities, advantages, and privileges of places of public accommodation and making it unlawful to refuse the same to any person on account of race, creed, color, or national origin or to publish any communication to the effect that the same shall be refused on account of race, creed, color, or national origin, empowering and directing the State Human Relations Commission to effect voluntary compliance therewith and providing criminal penalties for the violation thereof, and repealing Section 1501 of title 24, Section 902 of Title 28 and Section 703 of Title 26, Delaware Code of 1953, insofar as said sections are inconsistent herewith

Be it enacted by the General Assembly of the State of Delaware:

SECTION 1. Title 6, Delaware Code of 1953, is amended by adding a new chapter thereto reading; as follows:

CHAPTER 45. EQUAL ACCOMMODATIONS.

§ 4501. Definitions

As used in this chapter—

"A place of public accommodation" means any establishment which caters to or offers goods or services or facilities to, or solicits patronage from, the general public. This definition shall apply to hotels and motels catering to the transient public, but it shall not apply to the sale or rental of houses, housing units, apartments, rooming houses, or other dwellings nor to tourist homes with less than ten rental units catering to the transient public.

"Commission" shall mean the State Human Relations Commission.

§ 4502. Purpose and Construction

This chapter is intended to prevent in places of public accommodation practices of discrimination against any person because of race, creed, color or national origin. This chapter shall be liberally construed to the end that the rights herein provided for all people without regard to race, creed, color or national origin may be effectively safeguarded.

§ 4503. Persons Entitled to Protection

All persons within the jurisdiction of this State are entitled to the full and equal accommodations, facilities, advantages and privileges of any place of public accommodation regardless of the race, creed, color, or national origin of such persons.

§ 4504. Unlawful Practices

(a) No person being the owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, shall directly or indirectly refuse, withhold from or deny to any person, on account of race, creed, color, or national origin, any of the accommodations, facilities, advantages, or privileges thereof.

(b) No person, being the owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation shall directly or indirectly publish, issue, circulate, post, or display any written, typewritten, mimeographed, printed, or radio communication, notice or advertisement to the effect that any of the accommodations, facilities, advantages, and privileges of any place of public accommodation shall be refused, withheld from or denied to

any person on account of race, creed, color, or national origin, or that the patronage or custom thereof of any person belonging to or purporting to be or appearing to be of any particular race, creed, color, or national origin, is unlawful, objectionable, or not acceptable, desired, accommodated, or solicited, or that the patronage of persons of any particular race, creed, color, or national origin is preferred or is particularly welcomed, desired, or solicited.

§ 4505. Duty to Induce Compliance

The Commission, in addition to other powers granted by this chapter is empowered and directed to induce compliance with the purpose of this chapter by informal methods of conference, persuasion and conciliation.

§ 4506. (a) A person believing himself aggrieved by an allegedly unlawful practice proscribed in Section 4504 may, by himself or his attorney-at-law, file with the Chairman of the Commission a complaint in writing which shall state:

(i) The name and address of the complainant.

(ii) The name and location of the place of public accommodation at which the unlawful discriminatory practice occurred, and the date and time thereof.

(iii) If known, the name and address of each respondent, that is, the person or persons who committed the unlawful act and (if different) the person who is the owner, lessee, proprietor, manager, or superintendent of the place of public accommodation.

(iv) Such other information as may be required by the Commission.

(b) No complaint shall be filed with the Commission more than ninety (90) days after the occurrence of the alleged act of unlawful discrimination, but any complaint can be amended at any time.

(c) Within ten (10) days after the complaint is filed, the Chairman of the Commission shall designate three or more Commissioners who shall themselves or by employees or agents of the Commission, investigate the complaint, ascertain the identity of the respondents, and endeavor to eliminate any unlawful discriminatory practice they discover by conference, persuasion, and conciliation. The Commissioners so appointed shall decide whether they shall hold a public hearing as part of their investigation.

(d) Within forty-five (45) days from the date the complaint is filed with the Commission, unless another date is fixed by the Chairman, the Commissioners so appointed shall submit a written report to the Chairman which shall:

(i) State findings of fact.

(ii) State which of the respondents, if any, has committed an act forbidden by this chapter, and if so,

(iii) State what efforts were made to adjust the complainant's grievance by conference, persuasion, and conciliation, and the result thereof.

(iv) State what action was taken to prevent future violation by the respondents.

(v) Make recommendations for future handling of the case.

Copies of the report shall be mailed to the complainant, to each respondent, and to the attorney at law of any party thus represented.

(e) If a majority of the Commissioners appointed to investigate the complaint determine that no respondent has committed an act proscribed by Section 4504, the complaint shall be dismissed. The order of dismissal shall be signed by the Chairman and mailed to the complainant, to each respondent, and to the attorney at law of any party thus represented. However, no order shall issue pursuant to subsection (f) unless a public hearing shall have been held with at least five days' notice to the respondent and unless the respondent shall have been given an opportunity to be represented by counsel and to present evidence.

(f) If a majority of the Commissioners appointed to investigate the complaint determine that one or more of the respondents has committed an act proscribed by Section 4504, the Chairman shall execute with such respondent or respondents who committed such act, an agreement that he or they shall discontinue such unlawful practice and shall refrain from unlawful practices proscribed by Section 4504 of this chapter. The agreement shall contain such other terms as are reasonable and will effectuate the purposes of this chapter. In the event that the respondent or respondents shall refuse to execute such an agreement the Chairman shall issue an order ordering him or them to discontinue such unlawful practice, to refrain from unlawful practices proscribed in Section 4504 of this chapter and to comply with such other terms of the order as may be contained

therein and which are reasonable and will effectuate the purposes of this chapter. Such order shall be served personally on each respondent subject to the order by a member of the Commission or its staff or shall be served by registered or certified mail. A copy of the agreement or order, as the case may be, shall be mailed to the complainant and to the attorney at law of any party thus represented.

§ 4507. Commission's Power to Investigate Compliance

The Commission is empowered to investigate compliance with this chapter whether or not a complaint is filed. In furtherance and not in limitation of this power, the Commission may review practices of any place of public accommodation within this State by three or more Commissioners appointed by the Chairman. The Commissioners thus appointed shall conduct an investigation in a manner which shall follow, so far as is reasonably practicable, the procedure specified in Section 4508 and the Chairman shall conclude such investigation by an agreement or order as provided in Section 4506 (f) or shall notify such place of public accommodation that no agreement or order is deemed necessary.

§ 4508. Commission's Power to Adopt Rules

The Commission shall have the power to adopt rules and regulations concerning the manner in which complaints shall be investigated or other investigations pursuant to this chapter shall be conducted, the manner which public hearings shall be conducted, the general form and content of agreements and orders provided for in this chapter and such other rules as the Commission shall consider appropriate to assist it in performing its duties and in carrying out the purposes of this chapter. Such rules and regulations shall have the force and effect of law.

§ 4509. Compelling Attendance of Witnesses and Production of Documents, Oaths, Subpenas

(a) The Commission, or any group of Commissioners appointed to investigate a complaint or otherwise to investigate compliance with this chapter, may compel the attendance of witnesses and the production of papers, books, accounts and all other documents at any public hearing.

(b) At any public hearing, any member of the Commission may administer oaths to all witnesses who may be called before the Commission, or any group of Commissioners appointed to investigate a complaint or otherwise to investigate compliance with this chapter, as the case may be.

(c) To compel attendance at any public hearing subpoenas may be issued in the name of the Commission and shall be signed by a member thereof and may be served by any Sheriff, deputy sheriff, constable or any employee of, or member of, the Commission and return thereof made to the Commission.

§ 4510. Witness Fees and Mileage

Any witness appearing in response to a subpoena shall receive fees and mileage allowances computed at the rate allowed to witnesses in the Superior Court, such fees to be paid when the witness is excused from further attendance.

§ 4511. Refusal to Obey Subpena, Answer Question or Produce Documents; Contempt

If a person subpoenaed to attend before any group of Commissioners appointed to investigate a complaint or compliance with this chapter fails to obey the command of such subpoena without reasonable cause, or if a person in attendance refuses without lawful cause to be examined or to answer a legal pertinent question, or to produce papers, books, accounts or other documents when ordered to do so by the Chairman of the public hearing, any member of the Commission may apply to the Superior Court in and for the county where such hearing is being held for an order returnable in not less than two or more than ten days directing such person to show cause before the Court why he would not comply with the subpoena or order of the Chairman of the public hearing. Upon the return of such order the judge before whom the matter comes on for hearing shall examine under oath the persons whose testimony may be relevant to be heard and if the judge determines that the person refused without legal excuse to obey the command of such subpoena or to be examined, or to answer a legal or pertinent question, or to produce a book or paper which he was ordered to produce, the judge may order such person to comply forthwith with the subpoena

or order of the Chairman of the public hearing and any failure to obey such order of the court or judge may be punished by the court or judge as a contempt of the Superior Court.

§ 4512. Rules Governing Conduct of Hearings

All public hearings before any group of Commissioners appointed to investigate a complaint or failure to comply with this chapter shall be conducted in accordance with the rules prescribed by the Commission. In investigations and the conduct of public hearings, the Commissioners shall not be bound by the technical rules of evidence. A record shall be kept of all investigations and all public hearings and all parties shall be entitled to be heard in person or by attorney, and to introduce evidence.

§ 4513. Right to Appeal

(a) Any complainant aggrieved by a dismissal of a complaint under Section 4506(e) or by an agreement or order as provided by Section 4506(f) or any respondent aggrieved by any order as provided in Section 4506(f) or Section 4507 shall have a right to appeal to the Court of Chancery in the county in which the unlawful act is alleged to have occurred. Such appeal shall be filed within thirty (30) days of the date of dismissal of the complaint, execution of the agreement or issuance of the order.

(b) On the appeal, the aggrieved party shall designate himself as appellant and the Commission and any other parties to the matter in which the appeal is taken as appellees. Within twenty (20) days after service of the summons on the Commission, the Commission shall file with the Court a complete record of its proceedings in the matter including the complaint, if one has been filed, the report of the Commissioners, a copy of the notice of dismissal, agreement, or order as the case may be, and such other documents as may be in the Commission's file. The Court shall hear evidence and shall determine whether there is substantial evidence to support the dismissal, or the terms of the agreement or order and whether there is substantial evidence that the agreement or order is reasonable and will effectuate the purposes of this chapter. In the event that there is such substantial evidence, the dismissal, agreement or order shall be affirmed, and it shall thereafter have the force and effect of an order of the Court. In the event that the Court shall determine that there is not such substantial evidence, it shall make such order as it deems appropriate to give effect to the purposes of this chapter. In either case such order shall have the force and effect of any other order of the Court of Chancery.

(c) Unless otherwise ordered by the Court, the filing of an appeal to the Court of Chancery shall act as a stay of any agreement or order until disposition of the appeal.

(d) Any aggrieved party shall have a right to appeal from the order of the Court of Chancery.

§ 4514. No Prosecution Unless Approved by the Commission

Other than prosecution instituted by the Attorney General, by way of indictment or information, no criminal prosecution under this chapter shall be instituted unless the Commissioners appointed to investigate the alleged offense, or a majority of them, shall first have certified in writing that such prosecution is in the public interest. The basis for such certification shall not be reviewed in any proceeding whatsoever. The Commissioners may consider that a prosecution is in the public interest when they determine that there is probable cause to believe that any person has violated any provision of any agreement or order executed or issued within twelve months prior to such violation or when they shall determine that there is probable cause to believe that an unlawful practice as proscribed by Section 4504 has occurred and that efforts to eliminate the unlawful practice by informal methods of conference, persuasion and conciliation have failed and that further efforts are likely to be futile.

§ 4515. Violations and Penalties

Any person who, on prosecution instituted by the Attorney General, or on prosecution instituted by any other person after certification by the Commissioners as provided in Section 4514, shall be found guilty of any unlawful practice proscribed by Section 4504 or who shall be found guilty of violating any provisions of any agreement or order executed or issued within twelve months prior to such violation shall be guilty of a misdemeanor and shall be fined not more than \$500 or imprisoned for not more than ninety days, or both.

§ 4516. Action for Specific Performance; Commission to be a Party; Attorney General to Represent the Commission

Compliance with an order of the Chairman or of an agreement executed by a respondent may be enforced by a civil action in the Court of Chancery to compel specific performance of the order or agreement. Such action shall be brought in the Court of Chancery to which an appeal could have been taken from the order or agreement. Action may be commenced at any time after the issuance of the order or execution of the agreement without regard to whether penal sanctions may also be invoked for violation of an order or agreement.

In any action brought under this section the Commission shall be a party and shall be represented by the Attorney General.

Sec. 2. Section 1501 of Title 24, Section 902 of Title 28, and Section 703 of Title 20, Delaware Code of 1953, and all laws or parts of laws inconsistent with the provisions of this act are hereby repealed insofar as such inconsistency does occur.

Sec. 3. If any clause, sentence, paragraph or part of this Act or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act.

STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS.

EXECUTIVE CHAMBER,
Providence, July 10, 1963.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: Thank you for your letter of June 28 enclosing a copy of the proposed Public Accommodations Civil Rights bill.

Rhode Island has had a public accommodations law administered by a Commission Against Discrimination since 1952. This act has worked successfully in Rhode Island. There has been noteworthy voluntary compliance with the law by the establishments covered by it. For example, during the last year some 14 complaints were filed with the Commission, but only 5 were found to be justified. These 5 complaints were conciliated by the Commission without the necessity of court action. In fact, the Commission has never been forced to resort to court action to enforce the law.

I favor the enactment of a Federal public accommodations law. Such a law undoubtedly would prove to be of great assistance to racial minorities in those States that have not seen fit to enact similar legislation. However, I am troubled by section 3 of the proposed bill. It seems to me that a more precise definition of the establishments to be covered by this bill is necessary in order to give affected businesses notice of their coverage. Also I believe that the law would be more effective if it was required therein that a conciliatory process be followed before resort to the courts is made. This would serve to make litigation unnecessary in many instances and also encourage voluntary observance of the law. Such an approach has been successful in Rhode Island, and I feel certain it would also work at the Federal level of government.

Very truly yours,

JOHN H. CHAFFE, Governor.

TENNESSEE EXECUTIVE CHAMBER,
Nashville, Tenn., July 18, 1963.

HON. WARREN G. MAGNUSON,
U.S. Senate, Commerce on Commerce,
Washington, D.C.

DEAR SENATOR MAGNUSON: I deeply appreciate your courtesy in sending me a copy of S. 1732, the public accommodations civil rights bill.

I have followed the hearings on this measure with a great deal of interest, and I would appreciate having an opportunity to examine a transcript of the hearings when they are completed.

Sincerely,

FRANK G. CLEMENT.

ADDRESS BY HON. JOHN CONNALLY, GOVERNOR OF THE STATE OF TEXAS, SUBMITTED TO THE COMMITTEE IN LIEU OF STATEMENT

Good evening, fellow Texans. Thank you for allowing me this opportunity to visit in your home, and thanks to this television station for providing this time as public service.

I want to talk to you tonight about a matter of grave concern to all Texans. Tomorrow, I will be in Miami speaking as a voice for Texas at the National Governors' conference. This conference is a convocation—a meeting of the chief executives of all the States of this great Nation. Each year, for some 55 years, Governors have gathered together from North and South, East and West, Democratic and Republican, to discuss our problems, our progress. Our program deals with the day-to-day operations for our State governments—financing our schools and colleges, improving our hospitals, traffic safety, civil defense, economic development, and the like. We meet in fellowship to share our experiences, our experiments, in order that we may learn to serve better the people of our States.

Though it is not on the program, the primary topic of discussion there—as it is throughout the Nation today—will surely be that of the uncertainty and unrest on civil rights. As your spokesman, I want to talk to you tonight about civil rights in Texas—the integration issue. I want to tell you personally of my convictions before I leave Texas, and before I advance any views at the National Governors' conference.

I'm sure that most Texans share a feeling of compassion for the President of the United States as he bears the brunt of a massive burden as the leader of 180 million Americans, certainly one of the heaviest burdens of any President in our history.

As Chief Executive of the Nation, he faces problems of frightening magnitude. He must deal with Khrushchev in a continuing struggle for the very preservation of the free world under constant threat of H-bomb annihilation. He must deal with a dictatorship in Cuba, less than 100 miles from our shore. He must deal with a ruthless Communist China. He must contend with a cantankerous De Gaulle in efforts for a united West. He must deal with growing economic and political effect on this Nation of the European Common Market. And in a new dimension that no American leader has ever had to face, he must chart this Nation's course in space, as well as on earth.

As if this burden were not enough to bear, he now carries the crushing weight of one of the most serious and perplexing domestic issues of this Nation in almost a century—the churning issue of civil rights. It is a heavy care for any man. I do not envy him his responsibility.

Regardless of our political views, Democratic or Republican, we can have understanding sympathy for the massive tensions of our times, and sympathy for the conscience-heavy judgments necessary in these times to tax every resource of wisdom of any man who holds the Presidency. I would say these same words if the man in the White House were a Republican.

In the civil rights issue, the President of the United States faces a problem that varies in intensity and complexion very widely throughout our Nation. The situation in Maryland is far different from that in New Mexico. We therefore as Texans should be tolerant and restrained in judging necessary actions or needs in areas remote from us. This often demands very broad understanding, but we are capable of it. I cannot and should not sit in judgment from the capitol in Austin on actions taken in 40 other State capitols or the one in Washington.

But, as Governor of Texas, it is my responsibility—and one in which I take pride—to reflect the sentiments and convictions of 10 million citizens, in view of national developments which deeply affect us and our lives. To do less, I would fail in my obligation to be the spokesman, the advocate of our people. It is in that spirit that I address you tonight.

In our land today, headlines reflect the harsh voices of extremism on civil rights. Spokesmen are plentiful and eloquent in pleading diametrically opposed views. The din of controversy has risen to a disquieting level. And throughout it all, most Texans I know have quietly, patiently listened with a remarkable restraint and fairmindedness. This, to me, is a tribute to the commonsense of the people of Texas. And I am proud.

But the din becomes louder, without tranquillity in view. Texans are disturbed, I believe, over the fact that all is not well in our Nation.

I am speaking out to you tonight on civil rights because I am convinced that the voice of reason must be raised—clearly, strongly—to reflect the feeling

of the vast majority of Texans. The issue of civil rights is too vital to be left to the discordant, divisive elements of either the extreme left or the extreme right. The reasonable, responsible people of this State must not abdicate in favor of the forces of passion—or those who would exploit strife for selfish gain.

We Texans are a unique people. Ours is a distinctive heritage. On the floor of the rotunda of the capitol in Austin are emblazoned the seals of six great nations. We alone of all Americans have lived under six flags. We have lived under tyranny, and in revolt. We have tasted the wines of victory and the dregs of defeat. This heritage was not forged by any one race, or color, or creed; it was forged rather by a new breed of man—a breed known as the Texan. A breed composed of Protestants, Catholics, and Jews, a breed originating in a host of colonial states, in Mexico, Scotland, Ireland, France, Germany, Czechoslovakia, Poland, Italy, and a dozen other lands. A breed proudly bearing names such as Austin, Houston, De Zavala, Crockett, Dowling, Solms, and Jones, and Smith.

At one time or another in the past, we Texans have all known that it meant to be different—to be part of a minority. This heritage gives us an unusual insight into the problem of civil rights. I like to think that it gives us warmth and understanding in these difficult times.

To discuss meaningfully civil rights in Texas, we must first evaluate our own situation here in the State. And I am particularly pleased, at a time when all communications media are filled with strife and rumors of strife elsewhere, that Texans can point with pride to achievements rather than crisis.

Many of you listening tonight may have little awareness of how much progress has been made in Texas toward insuring equal civil rights for racial minorities. I'm going to review this progress briefly.

In education, the most important, the most vital area of interest to all Texans, tremendous strides have been taken:

Sixteen of our twenty-one public senior colleges and universities are now desegregated.

Twenty-six of our thirty-three public junior colleges have desegregated, and others are prepared to do so.

As of today, 212 Texas public school districts have taken steps toward desegregation; 53 percent of the Negro school children in Texas now live in school districts which have programs of desegregation actually in operation. More districts are desegregating every week.

Equally dramatic progress has occurred in other areas:

Seventy-five percent of our restaurants serve all citizens regardless of race.

Eighty percent of our hotels shelter all citizens regardless of race.

Eighty percent of our theaters admit all citizens regardless of race.

But this is not the whole story. Across the length and breadth of this State desegregation proceeds apace in parks, playgrounds, swimming pools, libraries, and churches. In every corner of Texas the horizons of equality extend to more and more citizens of our State.

I'm proud of Texas and of Texans for this kind of progress, progress which is continuing day by day. I'm equally proud of another kind of progress that has come particularly in recent months.

During the past few months you have heard names such as the Reverend O. A. Holliday, Dr. Joseph Chatman, Joe Scott, the Reverend Marvin Griffin, Dr. Vernon McDaniel. These men are serving on the highest policy boards of this State. All these outstanding Texans happen to be Negro. They are qualified by background, experience, and leadership for distinguished public service.

There are other names you haven't heard of; equally outstanding Negro citizens who have assumed increasing roles of responsibility in the affairs of our State and local governments.

But let me make one point clear: I did not appoint any of these citizens because they are Negro. I appointed them because they were outstanding Texans who were qualified through education and experience to render service to the people of this State. I have not—and I will not appoint any man to any position merely because he is a Negro.

Now I recognize that our progress leaves much to be desired. But as a Texan, I'm proud to point to this progress, and to hold high the banner of this sovereign State and to repudiate any who would ridicule or minimize achievements in Texas.

Now how has this past progress been possible? To me, this question is every bit as important as the progress itself, because it points the way to meaningful progress ahead. It has been possible because reasonable men—men of good

will, men of humility—have worked quietly, conscientiously to make it so. They are not men who have sought headlines, nor men who have dealt in inflammatory phrases or passions, but rather in the quiet understanding of human dignity. They are men who seek harmony and first-class citizenship for all our people—nothing more. As Governor of Texas for the past 6 months, I have had a hand in some of these endeavors. I have done so quietly, without publicity, because in my judgment this is an issue that calls for sincerity, not sensation. But principally, the job has been done not by me at all, but by unassuming, unsung leaders of cities, towns, and villages throughout this State.

Now who has done this job? It has been your mayors, your commissioners, your judges, your public school boards, your local businessmen, lawyers, ministers, and educators. It is they who have had the courage and good citizenship to step into the breach in this trying time. They have seen their duty and they have done it magnificently. Ten million Texans owe a mammoth debt of gratitude to these men—men of both races—for their dedicated and untiring endeavors. While others have talked, they have done.

A few weeks ago, I spoke to a gathering of Negro Texans in Austin at a meeting of the United Political Organization; an organization dedicated to the improvement of the legal, educational, economic opportunities of their people. It was a distinguished gathering of some of the State's most accomplished citizens. There were outstanding members of every business and profession.

The meeting honored Negroes who have assumed roles of leadership in Texas, and it was an occasion to do honor to this State. Speaking to these Texans, I said in part (quote): "I believe that most Texans share my confidence that we will go the rest of this journey to the common destiny that is ours if we follow the road of cooperation and avoid the perilous path of unreasonable coercion."

This statement brought enthusiastic applause from these fine Texans. And I'm proud that it did.

Two days later, speaking in Dallas to the State bar of Texas, I told that group of advocates and practitioners of law and order in our society about the meeting in Austin, and repeated to them, word for word, the same sentence as in Austin.

In Dallas, as in Austin, this statement brought enthusiastic applause from these fine Texans.

This to me underscores and dramatizes the philosophy and spirit of our success in civil rights. We have avoided the cold, arbitrary tool of governmental edict. So you see, I go to Florida with pride in our achievements.

But as I represent you at the national Governors' conference the next few days, the spotlight of national attention is focused on controversy presently swirling about proposed Federal legislation to deal with the problems such as those which we have been solving in Texas. I want to make clear to all Texans tonight my views on this legislation.

I believe the record of my administration leaves no doubt that I will do all within my power to meet in good faith our State's responsibilities including those in the field of civil rights. But as an attorney by education and practice for more than a quarter of a century, I am deeply concerned over some of the provisions of the proposed legislation.

I am disturbed because I fear that these provisions could carry potential danger to the people of this State that is far greater than any now envisioned. They would be laws which in my judgment would strike at the very foundation of one of our most cherished freedoms—the right to own and manage private property, a right as dear to a member of any minority group as to any other Texan. I speak specifically of the proposed Federal law which would deprive the owners of private business of the right to decide whom they would serve, and of the accompanying proposal to give broad powers of enforcement to the Attorney General of the United States.

Let me make clear once again:

I can conceive of no Texan's disagreeing that every citizen of this State shall have full and equal legal rights as guaranteed under the Constitution.

But I cannot accept nor support the proposition of violating one person's rights to bestow privileges on another person, regardless of the color or race of either.

I therefore respectfully oppose these proposals of the national administration, as the spokesman for Texas.

Regardless of my view on the pending Federal legislation, its fate obviously will ultimately be decided by the National Congress, and not by me. If this legis-

lation does become law, I of course will uphold that law in accordance with my oath of office.

But no matter what happens in Washington, it will not change the character of the problem, nor provide the real answer. For the problem is not in Washington—it is in the tens of thousands of communities throughout the 50 States where we live and work every day.

The voices of irresponsible demagogues are loud and demanding on what the individual States should do. Radical extremists on both sides advocate widely divergent actions. Some would have the State used as an instrument and a force of oppressive action against the whites. Other equally militant voices would have the State used as an instrument of force and oppressive action against the Negroes.

As Governor of Texas, I vigorously reject both approaches as wholly distasteful and unacceptable to reasonable, responsible Texans.

As I said earlier, this entire question is too important to be left in the hands of extremists on either side, and I do not intend to see that ever come about in Texas. Regardless of what happens in Washington today, next week or next year, progress in civil rights is a continuing responsibility of this State. As long as I am Governor, I intend to see that we live up to this responsibility. But in our own Texas way.

What is the Texas way that I advocate and pledge to support?

Well, let's look at the real basic desires of the minority group citizen of our State:

First and foremost, he asks equal treatment under the law. And as Governor of Texas, I'll do everything within my power to see that he has this constitutional right. And I don't know of any Texan who would think it should be any other way.

Second, he asks equal voting rights—freedom at the ballot box. And as Governor of Texas, I'll do everything within my power to see that he has that constitutional right. And I don't know of any Texan who would think it should be any other way.

Third, he asks free and equal access to public facilities maintained and operated by public taxes, including his. As Governor of Texas, I intend to do everything within my power to see that he has that constitutional right.

But there are two more critical needs of the minority group Texan that really go to the heart of the matter—for they determine what kind of life he and his family enjoy, and what kind of productive citizen he is in our society, and whether he makes a contribution to the State or whether he requires the support and aid of the State.

I refer to the twin necessities of education and economic opportunity. Unless we have achieved these goals, equality under law is but a pretense.

We in Texas recognize that we cannot have a system of second-class citizenship for any minority group. By the same token, we must recognize that we cannot have a system of second-class education for any group. We need, indeed we must have a system of education which affords to each child, irrespective of race or color or creed, opportunity to develop to the fullest extent possible his God-given talents and abilities.

If we in Texas are to meet the challenges of the space age, we will need to utilize the educational capabilities of all our children. We are entering an age of great change, an age of technology, an age in which there will be a tremendous demand for scientists, technicians, and skilled workmen. We cannot afford to waste the brainpower, the unused educational capabilities of a single child. To each we must provide an education of the first class.

But educational opportunity alone is not enough. It does us little good to train a Negro or a Latin American youth to be an automobile mechanic or a bricklayer or an office worker or a mathematician or a physicist unless we provide him also with the opportunity to utilize his skills, his training, his abilities. We need to recognize that ability is not limited to a particular color. It covers the broad spectrum. We need to utilize it wherever it is found. Our society faces vigorous economic competition, both from other free societies and the totalitarian world. In this competition we cannot afford the economic waste attached to discrimination solely because of color. This is not solely humanitarianism, it is but good business sense; the same type of sense that helped build the best economic system on the face of the earth.

Let us face the fact that when we restrict the educational and economic opportunity of any citizen, we restrict also his opportunity to become a fully self-

supporting participating member of our economy and our society. In so doing, we impose upon our governments at the State and local level unnecessary additional burdens for social welfare expenditures.

You cannot bestow education by administrative edict. Neither can you assure economic opportunity solely by legislation.

How then do we do it? We do it as it has been done all over this State: by allowing individual citizens of good will of the community to sit down together—men and women who know each other, who have mutual respect and confidence—to discuss calmly and without tension the steps necessary to make fully participating citizens of everyone. We do it by talking out our differences—through persuasion and cooperation, not passion nor compulsion.

And this is the path I propose for Texas to continue to travel. Some have asked why I haven't appointed a State action committee on civil rights. I have purposely avoided that course, for the very reason that I am deeply convinced that civil rights is a local issue. It must be faced and be solved locally. This is the only way to achieve meaningful progress.

Can Texas continue to meet the challenge in this way? I am convinced that we can and we will. Not in decades have we had such a chance to give dramatic support in deeds of our dedication to the sacred principles of local self-government. If we truly believe in the doctrine of States rights, we never shall have a better opportunity to demonstrate it to the glory of Texas. And I know that we will.

This is the path I want to continue to travel—the path of persuasive progress. If the necessity should become clear, of course, I will appoint a State committee to deal with civil rights in aiding local communities.

But I don't want to set up such a committee. The job should continue to be done without anybody from Austin telling you what to do, and without anybody from Washington telling us we have to do it.

Basically, Texans are sound, reasonable people who can be counted on to do what is right. They can be led, but they don't like to be shoved.

As I depart to represent the people of Texas at the National Governors' Conference, I want to ask your help in this vitally important matter. You, and only you, can help assure full civil rights for all.

Help to meet the challenge of civil rights. In your neighborhood, in your community, join me as a reasonable voice for progress.

Ours is the opportunity to stand tall in the proud Texas tradition as the State of good will, without compulsion of law.

Finally, let us not view this issue as just a problem; rather, let us in Texas make of it a great opportunity to educate and elevate our people to the end that all of us may recapture the bold faith of those who began this noble experiment grounded upon the worth of an individual human being. In the end, this will not be done by constitutions, laws, ordinances or edicts, but by a resolute people determined not to betray our historic and religious heritage. There must be a moral basis for asserting the worth of the individual, the essentiality of freedom. This basis is, I think, simply the belief that man is the child of God; that he holds within himself some portion of divinity. There is cause for concern that faith—the heart and meaning of freedom—has become less a part of our everyday life. We profess less, and perhaps share less, the religious faith of an earlier time which bade us love and trust one another, and accordingly respect each other's freedom. The poet speaks of "Freedom's Holy Light." And it must be a holy light, or it will be no light at all. It can glow only in a cherished faith that each man contains within himself a spark of the divine.

A great jurist of our country once stated his faith in these words: "The spirit of liberty is the spirit which is not too sure that it is always right; it is the spirit which seeks to understand the minds of other men and women; it is the spirit which weighs their interests alongside its own without bias; it remembers that not even a sparrow falls to earth unheeded; the spirit of liberty is the spirit of Him who, nearly 2,000 years ago, taught mankind that lesson it has never learned, but has never quite forgotten: that there may be a kingdom where the least shall be heard and considered side by side with the greatest. That is the spirit of an America which has never been and which may never be; nay, which never will be except as the conscience and courage of Americans create it; yet it is the spirit of that America which lies hidden in some form in the aspirations of us all."

Thank you and good night.

STATE OF CONNECTICUT,
EXECUTIVE CHAMBERS,
Hartford, July 1, 1963.

HON. WARREN G. MAGNUSON,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: Thank you very much for your letter concerning forthcoming hearings on S. 1732. I should like to be recorded as strongly in favor of this bill.

The denial of public accommodation to any citizen of the United States on grounds of race or religion cannot be defended on moral grounds, and certainly should be made unlawful.

Discrimination in places of public accommodation has been illegal in Connecticut since 1906.

Reports from the Civil Rights Commission of this State show that the law is well accepted by our people.

Complaints regarding violations of this law average about 30 a year and almost always can be settled through negotiation and conciliation. Rarely is it necessary to resort to the courts or to invoke the criminal penalties which the law provides.

Sincerely,

JOHN DEMPSEY, Governor.

STATE OF ALASKA,
OFFICE OF THE GOVERNOR,
Juneau, July 16, 1963.

HON. WARREN G. MAGNUSON,
U.S. Senator, Washington, D.C.

DEAR SENATOR MAGNUSON: I am pleased at the opportunity to comment on S. 1732, the public accommodation civil rights bill introduced at the request of the administration.

After a careful review of the bill, I find myself in wholehearted agreement with both the philosophy underlying it and the procedural machinery proposed to attain its purposes.

It is my firm belief race should not give rise to distinctions between individuals. The executive and legislative arms of government have delayed for too long in taking positive action to give the force of governmental authority to this fundamental precept of our way of life. The courts have ruled decisively for equal protection of the laws and the equality of opportunity this entails. The judiciary, however, cannot lead the fight. Leadership must come from the executive and legislative branches of government. I am heartened that this administration and so many Members of Congress have indicated a willingness to assume this much-needed leadership.

The specific terminology of the bill is adequate to accomplish its purpose. I particularly favor section 5 which grants the Attorney General authority to bring civil suits to enforce the provisions requiring equal treatment of groups now the subject of discrimination. The financial burden presently borne by Negroes in the South, where mass arrests are made, indicates that when a State's governmental machinery is geared to prevent equality of treatment, to ask private litigants to bear the entire responsibility of overcoming that policy is to place too great a burden on the individual. The availability of Government lawyers to handle the enormous burden of litigation resulting from protest movements should go a long way to make these efforts more effective.

You have asked information on Alaska's experience with its own public accommodation bill. While the measure became law in 1949, it is only recently that legal actions have been instituted under it. This is due in part, I believe, to the unusually good record Alaska has in the area of civil rights. One case prosecuted under the act was settled out of court with the understanding that the discriminatory practice would cease. Another case resulted in jury acquittal.

I am sending you a copy of ch. 49, SLA 1962, which amended the earlier act to require equal treatment in providing housing accommodations. This is a far-reaching act. I am also sending you a copy of ch. 15, SLA 1963, which creates a human rights commission. The commission and an executive director will be appointed shortly. It will have the full support of this administration in carrying out its duties. (See Appendix II.)

In my opinion the true effectiveness of the measure cannot be measured in terms of successful prosecutions. The fact that the State through its duly

elected legislature and Governor takes a firm stand against discrimination has a substantial effect on others who look to their elected leaders for moral leadership. I firmly believe that the State's equal accommodation law has a substantial effect in discouraging discrimination which might exist without that law.

Thank you for the opportunity to make my views known on this important legislation. You may use the contents of this letter as you see fit.

Sincerely,

WILLIAM A. EGAN, Governor.

STATE OF ARIZONA,
OFFICE OF THE GOVERNOR,
Phoenix, Ariz., July 2, 1963.

HON. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce,
Washington, D.O.

MY DEAR SENATOR: Your letter of June 28, enclosing a copy of S. 1732 is gratefully acknowledged.

Senator Goldwater and Senator Hayden will express the views of the State of Arizona on this measure.

Sincerely,

PAUL FANNIN.

STATE OF NORTH DAKOTA,
OFFICE OF THE GOVERNOR,
Bismarck, July 3, 1963.

HON. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce,
Senate Office Building, Washington D.O.

DEAR SENATOR MAGNUSON: This letter is in reply to yours of June 28, 1963, to Gov. William L. Guy regarding S. 1732, public accommodations civil rights bill, of which we received a copy.

The Governor is presently out of his office, and we wish to advise that North Dakota does have a less comprehensive public accommodations law that was passed in 1961, which substantially accomplishes the same objectives as S. 1732 would when enacted into law. The Governor, I am sure, would approve the passage of this legislation. Thank you for writing.

Sincerely yours,

LEONELL W. FRAASE,
Director of Administration.

COMMONWEALTH OF VIRGINIA,
GOVERNOR'S OFFICE,
Richmond, July 10, 1963.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.O.

DEAR SENATOR MAGNUSON: I wish to acknowledge your letter with reference to hearings on S. 1732 and the copy of the bill which you enclosed.

I am advised that Virginia Senators Byrd and Robertson are developing material on this subject which will adequately set forth the position of Virginia on this suggested legislation.

It does not appear feasible to prepare a separate statement at this time, but if it is later determined that we should do so, I certainly will advise you promptly.

With kindest regards, I am,

Sincerely,

A. S. HARRISON, Jr.

STATE OF OREGON,
OFFICE OF THE GOVERNOR,
State Capitol, Salem, July 5, 1963.

HON. WARREN G. MAGNUSON,
U.S. Senate, Washington, D.O.

DEAR SENATOR MAGNUSON: As I indicated following lunch with the President last month when he briefed eight Governors on his civil rights proposals, I am in full accord with his efforts in this regard. Moreover, as I commented to him

at the time, the State of Oregon has been a pioneer in civil rights legislation with fair employment practices, public accommodations, and personal services legislation on our books for some time. These have worked well. I would welcome your investigation in depth of our administration of these laws here.

With kindest regards,
Sincerely,

MARK O. HATFIELD,
Governor.

STATE OF NEW JERSEY,
OFFICE OF THE GOVERNOR,
Trenton, July 29, 1963.

HON. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: I am pleased to have the opportunity to state my position on S. 1732, the public accommodations civil rights bill, which was introduced by 46 Senators, including New Jersey's Harrison A. Williams, Jr., and Clifford P. Case.

This bill has my unqualified endorsement, and I earnestly hope that it will be adopted by the Congress without any amendments that would limit its scope or weaken its force.

New Jersey was one of the first States to enact a law against discrimination. Our law was adopted in 1945. It first dealt only with discrimination in employment, but in 1949 it was amended to bar discrimination in places of public accommodation. In 1957 it again was amended to prohibit discrimination in housing supported by public funds and then in 1961 a portion of private housing was added to coverage by the law. We are currently endeavoring to convince our State senate to give favorable consideration to an amendment, already adopted by the assembly, that would make the coverage for private housing virtually complete. Just 2 months ago the legislature adopted, at my request, an amendment which transferred the division on civil rights (the State agency which administers and enforces the law against discrimination) from the department of education, where it was first placed in 1945, to the department of law and public safety. The purpose of this last amendment was to give more emphasis to the enforcement provisions of the law.

I am enclosing a pamphlet copy of New Jersey's law against discrimination, which is up to date except for the last-mentioned amendment transferring the division on civil rights.

On page 3 of this pamphlet, subsection (j), you will note the types of establishments covered by the law as places of "public accommodation."

Other sections of the law set forth the procedures for (a) the receipt of complaint; (b) investigation; (c) finding of probable cause; (d) conciliation; (e) public hearings; (f) cease-and-desist order; and (g) enforcement through court order.

In the 18 years of the existence of the law and the division on civil rights (through April 30, 1963 a total of 625 formal complaints involving public accommodations were received and processed. Over the years these included almost every kind of establishment listed in the definition. Currently, complaints involving public accommodations account for 13 percent of all the complaints being received.

There are very few facilities throughout New Jersey which are commonly thought of by the public as places of "public accommodation" where the owners or managers continue to practice discrimination. The complaints involving public accommodations being received by the division involve either areas of the State which Negroes previously had not patronized, such as the seashore motels in the southernmost counties of the State, or "private" swimming clubs which are not, in fact, private.

Although S. 1732 does not appear to provide additional Federal coverage of the establishments or facilities uncovered by our State statute, I am convinced that the adoption of this bill by the Congress would materially support and enhance the enforcement of our law in our own State. Furthermore, New Jersey is not an island. Although a citizen of this State may be protected by a civil rights law at home, he can and frequently does suffer legal disabilities when visiting elsewhere in this free country of America. To give more meaning to the concept of individual freedom and dignity, comprehensive Federal legislation is needed.

I can assure you that the department of law and public safety and the division on civil rights in the executive branch of New Jersey's State government would be ready and willing to cooperate fully with the Attorney General of the United States as is provided for in section 5, subsection (d) of S. 1732.

Sincerely yours,

RICHARD J. HUGHES,
Governor.

STATE OF MINNESOTA SENATE,
August 6, 1963.

COMMITTEE ON COMMERCE, U.S. SENATE,
Washington, D.C.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: As Lieutenant Governor of Minnesota, I would like to take this means of expressing my support for S. 1732, the public accommodations bill, in accordance with the committee's desire to hear from interested State officials. Gov. Karl F. Rolvaag, whom you heard on August 2, made a clear and forceful case in favor of the bill and I join him in strongly urging its passage.

In my judgment S. 1732 is one of the most significant pieces of legislation to come before the Congress in this century. Its chief importance arises from its attempt to redress a legitimate grievance of deprived human rights, a grievance which, if it is not properly met, will continue to haunt the moral conscience of this Nation indefinitely.

There can be nothing more sacred in a democratic society than the full protection of human rights, and our Nation has wisely seen fit to place that protection in our Constitution. There can be no doubt as to the meaning and intent of the Constitution on the matter of equal opportunity, and this in itself should, ideally, make additional legislation such as that now before you unnecessary.

Unfortunately, however, human and not constitutional imperfections do make the bill necessary since there are many persons in all parts of the Nation who continue to deprive Negroes and other minority groups of their full constitutional rights.

The ideas of equal opportunity and equal protection of the laws have played an ever-expanding role in the history of our democracy and continue to be basic to our success as a free society. But that success is in serious jeopardy when equality is less than a reality, simply because freedom and justice cannot be guaranteed effectively to any when they are not extended equally to all.

Some persons have told your committee that the proposed bill would constitute a violation of so-called States' rights and property rights. Arguments of this nature are, in my judgment, totally fallacious and completely lacking in any sound legal foundation.

It is entirely proper for the Federal Government to legislatively guarantee the rights of its citizens since those rights originate, in a legal sense, in the Federal Constitution. There can be no question of Federal supremacy in all matters concerning basic civil rights and those who bemoan the infraction of States' rights fail to understand the derivation of authority in our federal system.

The property-rights argument is equally misleading. It is presumed that the ownership of a business entitles one to trade only with whom he wishes, since it is a privately owned enterprise. This presumption is a widespread misunderstanding which requires clarification.

When an individual opens his doors for a type of enterprise which solicits business from the general public, his enterprise immediately becomes a public concern in many ways. For example, it is subject to various public restrictions and regulations designed to protect the public welfare.

The public accommodations bill in effect declares that everyone be entitled equally without regard for color or creed to the goods and services such businesses offer.

This has been the law in Minnesota since 1885. The success of Minnesota's public accommodations law is a vivid example of the compatibility of human rights and property rights.

The rights of the States and the rights of property owners are, when properly interpreted, legitimate and admirable, but when either comes into conflict with civil rights as set forth in the Constitution, the latter must prevail.

Besides Minnesota, 29 other States and the District of Columbia presently have public accommodations laws generally similar to the bill before you. It seems to me that the demonstrated public acceptance and success of these laws may serve as a proper guide by which the Congress may apply a single standard of equality of opportunity to the entire Nation.

In fact, the proposed bill in a sense represents a logical expansion and clarification of the laws now in force in a majority of the States.

It also represents a long overdue attempt to make equality of opportunity a reality for those now denied it and therefore it is with a strong sense of urgency that I urge passage of this bill.

Yours very truly,

A. M. KEITH,
Lieutenant Governor, State of Minnesota.

THE STATE OF COLORADO,
EXECUTIVE CHAMBERS,
Denver, July 5, 1963.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
Washington, D.C.

DEAR SENATOR MAGNUSON: I want to thank you for writing me and sending me a copy of the public accommodations civil rights bill, S. 1732.

Copies of the laws now in effect in Colorado are enclosed, and I believe we have made good progress toward the goal of equal opportunity, insofar as it is possible to legislate in this field. The earliest antidiscrimination laws were passed in Colorado, in 1895, and have been supplemented through the years; the most recent addition to the law being the Fair Housing Act of 1959.

The Antidiscrimination Commission of the State of Colorado is working to further improve the situation, and it is my conviction that Colorado provides an excellent example of a State that has taken the lead in providing legislation to protect the civil rights of all citizens.

Sincerely,

JOHN A. LOVE.

STATE OF NEBRASKA,
EXECUTIVE OFFICE,
Lincoln, July 5, 1963.

HON. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: It was a real privilege to be with you in South Dakota. I regret that I did not have an opportunity for a longer visit.

This will acknowledge receipt of your letter of June 28, with reference to S. 1732. In my opinion this is necessary legislation.

Sincerely yours,

FRANK B. MORRISON, Governor.

THE STATE OF WISCONSIN,
EXECUTIVE OFFICE,
Madison, July 19, 1963.

HON. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: I acknowledge your letter of June 28, relating to S. 1732, the Public Accommodations Civil Rights bill, which 46 Senators have joined in introducing, and which is now before the Senate Committee on Commerce. It is gratifying to note that the sponsors of this important bill come from both political parties, and that among them are both Senators from Wisconsin—Senators Proxmire and Nelson. I am glad to take this opportunity to register my own approval of this proposed legislation, and I express the hope that in the not too distant future it will become the law of the land.

The abolition of the institution of slavery in our country, in 1865, was a memorable event in the history of the development of human liberty. But the mere abolition of chattel slavery was not enough; there remained the even greater problem of erasing the badges and incidents of slavery, so that our

Negro population could enjoy the full benefits of equal rights, immunities, and privileges under the law. There is no room in our democracy, and in our constitutional law, for the concept of a second-class citizenship. Equality of right is the touchstone of our system.

The basic principle of S. 1732 is neither new nor extreme. Over half of our States now have in their statute books some sort of equal accommodations law. Wisconsin has had one for many years. In fact, the Legislature of Wisconsin has frequently amended it, always for the purpose of expanding its coverage.

Our experience suggests that this is the sort of law which is very difficult to enforce. The problem of proof is great, juries are reluctant to find for plaintiffs, public prosecutors are slow to initiate proceedings, and aggrieved parties are, for a variety of reasons, unable or unwilling to commence legal actions. These reasons include lack of resources to finance costly legal actions, fear of economic reprisal, and a desire to avoid stirring up a public fuss or attracting attention. Nevertheless, it can by no means be asserted that Wisconsin's equal rights law has had no effect at all. The mere fact that it is in the statute book exerts a profound educational effect, and as a result of action along all fronts, ranging from educational efforts and persuasion to civil actions and occasional criminal prosecutions, it is unquestionable that the State of Wisconsin has made very substantial progress in the fight against discrimination.

I wish it were possible for me to say that we have solved this problem altogether, but this would not accord with the facts. Discrimination is still especially acute, in my State, in the areas of housing and employment. Nevertheless, we have made some progress under our civil rights law in the direction of our ultimate goal of equal rights for all. We do not propose to let up in our determination to achieve our democratic purposes.

In addition, our experience with the concept of the equal accommodations law has been most reassuring to those who are concerned that such laws may impose harmful shackles upon business. As a matter of fact, this statute gives greater freedom to those businessmen who are willing and ready to extend equal service to all people regardless of race or color, but who hesitate because of the fear of losing patronage to competitors. By prescribing a uniform rule for all business establishments, the statute does not contract but rather enlarges the businessman's freedom of choice. Furthermore, people who are treated with fair and equal courtesy are much better customers than those who harbor resentments against treatment offensive to human dignity. Finally, the business community can only benefit from the enhanced economic activity which must result from abolishing the depressed condition of such a large segment of our population as is represented by our Negro citizens.

I think S. 1732 is soundly conceived and well drafted. It would seem to be within the scope of the Federal commerce power as now construed by our courts. Above all, it is wholly consistent with the moral imperatives of democracy and constitutional government. I express the hope that this laudable bill will be adopted by the Congress. We always profess to believe that all men are created equal and have equal, inalienable rights. It is high time that we practiced what we preached.

Sincerely yours,

JOHN W. REYNOLDS, *Governor.*

STATE OF NEW YORK,
EXECUTIVE CHAMBER,
Albany, July 19, 1963.

HON. WARREN G. MAGNUSON,
*Chairman, Senate Committee on Commerce,
U. S. Senate, Washington, D.C.*

DEAR SENATOR MAGNUSON: I am pleased to respond to your request for my comments regarding Federal legislation designed to eliminate discrimination in places of public accommodation. You have also invited my comments on the experience of New York State under its statute barring discrimination in places of public accommodation, resort, or amusement.

At the outset, let me express my strong conviction that the enactment of Federal legislation to help assure that each of our citizens will have equal access to and treatment in all public places is urgently needed. The moral basis for legislation having this objective grows out of the basic fact that our Nation, under God, was founded on and draws its sustenance from the concept of the worth of the individual and the brotherhood of man.

I am convinced that human rights and individual dignity require constant and continuing protection through law at every level of our society, if these fundamental rights are to be, and remain, a reality for all our people.

As far back as 1881, New York enacted a law making it a misdemeanor to deny any person "the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of all hotels, inns, taverns, restaurants, public conveyances on land or water, theaters and other places of public resort or amusement, because of race, creed, or color."

Thus, the principle of equal opportunity of access to public accommodations is well established in New York.

This principle was further promoted in our law against discrimination, which, as I shall explain, provides remedies far more practical than the criminal proceedings which the 1881 law required. New York's comprehensive law against discrimination, first passed in 1945, originally covered only employment and labor union membership. An amendment to the law in 1952 extended coverage to places of "public accommodation, resort, or amusement." Subsequent amendments, enacted in 1955, 1958, 1961, and 1963, extended the coverage of the law to 95 percent of the housing in New York State, and also to the sale and rental of commercial and business space. An amendment enacted in 1962 broadened the employment aspects to encompass apprenticeship training.

The "public accommodations" provisions of the law against discrimination have been amended twice during my administration: In 1960 and 1962, to expand the rights of all people to the enjoyment of all public facilities.

I am sure that your committee is fully aware of the highly successful experience of New York State in the application and administration of this law. The law is administered by the State commission for human rights (previously known as the State commission against discrimination), a seven-member commission appointed by the Governor by and with the advice and consent of the senate. The members are appointed for staggered 5-year terms.

As was the case with regard to discrimination in employment and as has been the case in other areas of its jurisdiction, the commission initiated a statewide educational program immediately after the public accommodations amendment was passed. The commission held a series of public meetings with leaders representing business, industry, the clergy, labor, and community organizations in all major cities and communities throughout the State.

These educational programs provided the commission with (1) the opportunity to explain the law, its procedures and goals, in an effort to obtain voluntary compliance with the spirit and the letter of the law; and (2) to allay the fears of those who felt that dire consequences would result from such legislation.

The commission's next step was to reorganize its investigation staff and gear it to handle complaints that might be filed.

The commission's complaint process is as follows: when a verified complaint is filed with the commission for human rights, the chairman designates one of the commissioners to make an investigation of the charges. If the investigating commissioner finds that discrimination probably occurred, he "shall immediately endeavor to eliminate the unlawful discriminatory practice complained of, by conference, conciliation and persuasion." If the conciliation procedure fails, a public hearing is held. If the commission finds that an unlawful discriminatory practice has been committed, a cease and desist order is issued. Failure to comply with such an order subjects the offender to the possibility of a fine of not more than \$500 or imprisonment for not more than 1 year, or both, subject to review by the courts. Any person, employer, labor organization, or employment agency, who or which shall willfully resist, prevent, impede, or interfere with the commission or any of its members or representatives in the performance of duty under the law against discrimination or shall willfully violate an order of the commission, shall be guilty of a misdemeanor and subject to punishment therefor. (Executive Law, secs. 297, 298, 299.)

The crucial fact for your committee to consider, in my view, is that the conference, persuasion, and conciliation technique has proved effective in approximately 98 percent of all cases involving public accommodation. These successful cases are brought to a conclusion with respondents agreeing to such terms as these:

1. An apology to the complainant.
2. An invitation to the complainant to use the facilities in the future.
3. The issuance of a policy settlement by the respondent that facilities involved are accessible to all people regardless of race, creed, color, or national origin.

Only in the rarest of cases has it been necessary to hold public hearings or impose sanctions in public accommodation cases.

In addition to the accomplishment of its major objective, the public accommodations provisions of the law have had two important byproducts.

First, the removal of discrimination in places of public accommodation has been greatly instrumental in creating the climate for greater mutual understanding among persons of differing races, creeds, and colors. This understanding has, in turn, made it easier to achieve advances in eliminating discrimination in other fields, such as housing.

Second, the law has led to greater use of public accommodation facilities throughout the State by Negroes and other minority groups, thereby increasing the income and profits of individual businesses in particular, and improving the economic health of the State in general. Commerce has clearly been promoted by the regulation achieved by the law.

I believe Federal legislation, based on the principles of the New York law, would be highly constructive.

Twenty-two States have followed the lead of New York in the enactment of some form of antidiscrimination legislation, and innumerable counties and cities also have passed similar laws. I hope that all States will take action against discrimination, because it is a responsibility of the States to insure equal opportunity for all the people. However, it is obvious that Federal action is necessary under the circumstances where many States have not acted.

It is my considered judgment that action must be taken at this session of the Congress.

I appreciate this opportunity to present my views to you and the members of your committee.

Very truly yours,

NELSON A. ROCKEFELLER.

STATE OF WASHINGTON,
EXECUTIVE DEPARTMENT,
Olympia, July 17, 1963.

HON. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: Thank you for your communication regarding the hearings on S. 1732. I am pleased to state my position on the subject of civil rights legislation.

In favor, without reservation, Federal legislation insuring that Negro and other nonwhite Americans shall enjoy all the rights, privileges, and immunities of citizenship, wherever they may live in the United States. Excepting for improper behavior or dress, white citizens have access throughout the Nation to places of public accommodation as described in title I of S. 1732. This right should, and must, be extended to all citizens.

Paragraph (2) of Revised Code of Washington 49.60.030 directs that the right to be free from discrimination because of race, creed, color, or national origin is recognized as, and declared to be, a civil right, including:

"The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement."

RCW 49.60.040 further defines the civil rights of all citizens of the State of Washington:

"Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular race, creed, or color, to be treated as not welcome, accepted, desired, or solicited; any place of public resort, accommodation, assemblage, or amusement includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services or for public conveyance or transportation on land, water, or in the air, including the stations and

terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps; *Provided*, That nothing herein contained shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution; * * *."

In 1937, such denial of access to places of public accommodation was founded by the Washington State Legislature to threaten "not only the rights and proper privileges of the inhabitants of this State, but menaces the institutions and foundation of a free democratic State."

As Governor, I strongly supported the foregoing legislation, and I have lent the full support of my office to its enforcement. Certainly, the actions of this State should be emulated by the Federal Government. I believe that civil rights can and should be guaranteed by Federal legislation, thereby extending such rights to the citizens of all the States. The failure of some States to extend by law such rights to nonwhite citizens, or to deliberately provide by law for racial discrimination, makes action, now, by the Federal Government absolutely imperative.

The State of Washington adopted a public accommodation law in 1909. This was amended in 1953 to enlarge the definition of "place of public accommodation." The latter was included in the omnibus civil rights law enacted in 1957. I can assure you that, since 1937, complaints have been very few. The statute is enforced because our citizens appreciate that equality of treatment is in accordance with our principles, and is good business.

The Washington State Board Against Discrimination handled 23 complaints relating to public accommodations in 1960, 32 in 1961, and 32 in 1962.

During the past 2 years, it has not been necessary to hold any public hearings on complaints. Each has been adjusted satisfactorily in conformance with the spirit of the law. Several years ago, the board held two public hearings, involving places of public accommodation. The proprietors immediately, and from that time on, have complied with the law. The board, in public accommodation cases, interestingly, has found "no probable cause" in about half of the complaints.

Because of our public accommodations law and its widespread acceptance, I can report, with great pride, to your committee that there was not a single recorded instance during the entire World's Fair of acts of discrimination against persons in places of public accommodation, including transient housing. This achievement should stand as an example to every other State in the Nation that unfair discrimination can be relegated to the past, and that the enjoyment of full public rights and privileges by all citizens is not only consonant with our best traditions, but can work in practice to the mutual benefit of all concerned.

Be assured of my continued support of all efforts that will underwrite the extension to all citizens, irrespective of race, color, religion, or national origin, of those historic liberties guaranteed Americans by the Constitution.

Cordially,

ALBERT D. ROSELLINI, *Governor*.

STATE OF MICHIGAN,
OFFICE OF THE GOVERNOR,
Lansing, July 16, 1963.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: I am pleased to respond to your recent inquiry regarding Michigan's experience under its public accommodations law.

Michigan has had a comprehensive public accommodations law since 1885, which firmly and unequivocally spells out the right of all citizens to "full and

equal accommodations, advantages, facilities, and privileges of inns, hotels, motels, government housing, restaurants, eating houses, barbershops, billiard parlors, stores, public conveyances on land and water, theaters, motion picture houses, public educational institutions, in elevators, on escalators, in all methods of air transportation and all other places of public accommodation, amusement, and recreation, subject only to the conditions and limitations established by law and applicable alike to all citizens and to all citizens alike, with uniform prices." The law also provides that any person who shall directly or indirectly deny such accommodations to any person on account of race, creed, or color "shall be fined not less than \$100 or imprisoned for not less than 15 days or both * * *." Violators of any of the provisions of the law are liable to the injured party in treble damages in a civil action. It provides, also, "In the event that any person violating this section is operating by virtue of a license issued by the State, or any municipal authority, the court, in addition to the penalty prescribed above, may suspend or revoke such license."

In an effort to assess the effectiveness of the law, Michigan's attorney general has been conducting hearings in recent weeks throughout the State. The attorney general has made a preliminary oral report on his findings to my office.

A summary of his observations are as follows:

1. The law is sufficiently comprehensive to provide legal recourse for any person subjected to discrimination in public accommodations.

2. In the State's major metropolitan areas, public accommodations are generally available to all citizens without discrimination. There are few complaints under the law, and complaints received are processed promptly by local law enforcement officials. Violators correct their practices after a warning.

3. In some rural sections of the State, the practice of discrimination in overnight accommodations is reported to be fairly widespread. Again, complaints are few, partly because Negroes do not care to take the time, trouble, and expense of a legal action, but mainly because Negroes do not in large numbers frequent areas of the State where discrimination may occur. There is evidence that complaints under the public accommodations law are not handled as expeditiously as possible by some local prosecutors in rural areas.

4. The attorney general's hearings throughout the State indicated that the provisions of the law on public accommodations were not generally well known either by the owners and managers involved, or by the minority groups the law is designed to protect.

It is clear from the foregoing observations that Michigan's public accommodations law has made a definite contribution to the establishment of equal opportunity in this area. At the same time it is clear that the mere existence of the law is not sufficient to close the gap between the principle and practice of nondiscrimination. It is essential that the availability of civil suits be coupled with the penal provisions of the statute and made effective through adequate enforcement by local prosecutors wherever discrimination occurs. In Michigan, the attorney general has broad authority to require such enforcement by a local prosecutor in the event that complaints are not being fully investigated and acted upon.

I have taken steps to inform local officials, public accommodation owners and minority groups regarding their responsibilities and privileges under the law and have requested the attorney general to make certain that local enforcement of the law is thorough and in accord with its spirit. Michigan is already in the forefront of those States which have adequate legislation to deal with the subject of nondiscrimination in public accommodations and the steps which we are taking, backed up by firm enforcement, when necessary, will clearly establish Michigan as a State where any citizen, regardless of race, may freely enjoy equal use of public accommodations throughout the State.

Sincerely,

GEORGE ROMNEY.

STATE OF GEORGIA,
OFFICE OF THE GOVERNOR,
Atlanta, July 1, 1963.

HON. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR MAGNUSON: I have your letter of June 28 in which you requested my comments on the public accommodations civil rights bill introduced by 46 Senators at the request of the administration.

In this connection, I am pleased to enclose to you herewith a copy of a press release issued by my office on June 12, 1963, which reflects my opposition to the passage of this bill.

With best wishes, I am,
Sincerely,

CARL E. SANDERS.

[Press release for Wednesday, June 12, 1963]

Our country has been described by the President as being in a moral crisis. With this statement I agree. I do not believe, however, that you can legislate morality any more than you can legislate the weather.

Therefore, I see no necessity for any new laws such as those proposed by the President to the Congress.

Personally, I would prefer to see efforts continue to build an attitude of mutual respect among our citizens as to their rights as well as their responsibilities.

For every right demanded, there must be a corresponding responsibility assumed. No individual or group should be allowed to presume and assume that it is possible to attain rights on a one-way street.

While considering these grave moral issues, we must thoughtfully remember that one of the most cherished rights enjoyed by all of our citizens under the Constitution is the full and free enjoyment of a person's property. The right to dominion and control of one's property is just as dear as any other human right and must not be trampled in the quest for other privileges of citizenship.

Everyone should have equal opportunities. Our laws must be applied equally to all citizens. No one, however, is entitled to special rights or privileges or to transgress the rights of others.

When we seek morality for our Nation and its people, we should turn to God and not to the U.S. Congress for a solution to our problems. Certainly, we can solve our moral problems more quickly and satisfactorily in our churches than we can by demonstrations on the streets of our cities or creating dissension and division in our Government.

CARL E. SANDERS.

COMMONWEALTH OF PENNSYLVANIA.
GOVERNOR'S OFFICE,
Harrisburg, July 12, 1963.

HON. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: In response to your recent letter, I am pleased to have asked the Pennsylvania Human Relations Commission to make available to you and your committee information concerning experience in this State with anti-discrimination laws.

You will hear from the commission, and in addition I hope you will not hesitate to contact them for any information you might wish.

Sincerely yours,

WILLIAM W. SCRANTON.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF LABOR AND INDUSTRY,
HUMAN RELATIONS COMMISSION,
Harrisburg, July 15, 1963.

HON. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: In response to a request from the office of Governor Scranton, we are sending you under separate cover a set of material on the laws administered by the Pennsylvania Human Relations Commission.

Please let us hear from you if we can be of further assistance.

Sincerely,

ELLIOTT M. SHIRK, *Executive Director.*

STATE OF IDAHO,
OFFICE OF THE GOVERNOR,
Boise, July 12, 1963.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR: Thank you for your letter of June 28, 1963, relative to the hearings on S 1732.

The policy of the State of Idaho with respect to these matters is contained in chapter 309, Idaho session laws of 1961, which reads as follows:

"SECTION 1. The right to be free from discrimination because of race, creed, color, or national origin is recognized as and declared to be a civil right. This right shall include, but not be limited to:

"(1) The right to obtain and hold employment without discrimination.

"(2) The right to the full enjoyment of any of the accommodations, facilities or privileges of any place of public resort, accommodation, assemblage or amusement.

"SEC. 2. Terms used in this chapter shall have the following definition:

"(a) 'Every person' shall be construed to include any owner, lessee, proprietor, manager, agent or employee whether one or more natural persons, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees, receivers, of this State and its political subdivisions, boards and commissions, engaged in or exercising control over the operation of any place of public resort, accommodation, assemblage, or amusement.

"(b) 'Deny' is hereby defined to include any act which directly or indirectly, or by subterfuge, by a person or his agent or employee, results or is intended or calculated to result in whole or in part in any discrimination, distinction, restriction, or unequal treatment or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement except for conditions and limitations established by law and applicable alike to all persons, regardless of race, creed or color.

"(c) 'Full enjoyment' shall be construed to include the right to purchase any service, commodity or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage or amusement, without acts directly or indirectly causing persons of any particular race, creed or color, to be treated as not welcome, accepted, desired or solicited.

"(d) 'National origin' includes 'ancestry.'

"(e) 'Any place of public resort, accommodation, assemblage or amusement' is hereby defined to include, but not to be limited to any public place, licensed or unlicensed, kept for gain, hire or reward, or where charges are made for admission, service, occupancy or use of any property or facilities, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest, or for the sale of goods and merchandise, or for the rendering of personal services, or for public conveyance or transportation on land, water or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food

or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports or recreation of any kind is offered with or without charge, or where medical service or care is made available or where the public gathers, congregates, or assembles for amusement, recreation or public purposes, or public halls, public elevators and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or any educational institution wholly or partially supported by public funds, or schools of special instruction, or nursery schools, or day care centers or children's camps; nothing herein contained shall be construed to include, or apply to, any institute, bona fide club, or place of accommodation, which is by its nature distinctly private provided that where public use is permitted that use shall be covered by this section; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution; and the right of a natural parent in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed.

"Sec. 3. Every person who denies to any other person because of race, creed, color, or national origin the right to work: (a) by refusing to hire, (b) by discharging, (c) by barring from employment, or (d) by discriminating against such person in compensation or in other terms or conditions of employment; and every person who denies to any other person because of race, creed, color or national origin, the full enjoyment of any of the accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage, or amusement, shall be guilty of a misdemeanor."

This bill was enacted in the 1961 session of the legislature and was approved by me on March 14, 1961. It became effective 60 days later. Our experience with this legislation has been salutary and it has in many respects assisted in keeping problems in this area at a minimum.

With kind personal regards and best wishes, I am,
Sincerely yours,

ROBERT E. SMYLIE, *Governor.*

STATE OF INDIANA,
OFFICE OF THE GOVERNOR,
Indianapolis, July 9, 1963.

HON. WARREN G. MAGNUSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: The public accommodations civil rights bill S. 1732, seems to be a practical and reasonable approach to this national problem. Section 5(e) which provide for voluntary procedures in behalf of compliance before instituting enforcement procedures is very important. We find that the great majority of these complaints can be settled in this manner once there is an enforceable law on the books.

Although it is a very humiliating and frustrating experience to be refused service in a public place merely because of one's race, most victims of such discrimination are reluctant to take legal action against it individually. Evidently they feel that since such discrimination has occurred for years and since the penalties often are small, they are not justified in spending time or money in legal proceedings. For legislation to be effective with this problem it would seem important that the complainant not be required to do much more than to report the facts to an office or official that is both accessible and sympathetic. During the many years this State had only a criminal statute on this subject and no administrative machinery, the law was almost totally ignored by all parties. As soon as the State civil rights commission was set up with special responsibilities and powers in this area, instances of illegal discrimination began to be reported to it almost daily. In practically all cases, longstanding practices were ended and compliance obtained voluntarily after one or two informal conferences between the parties. With no enforceable law in prospect, however, these informal conferences are relatively ineffective. The law gives the businessman a justification which is acceptable to reluctant customers and employees for changing his policies.

Our State commission has recently completed a survey of 2,000 places of public accommodation in the State along with interviews of several hundred owners who have changed their policies. Ninety-three percent of these owners reported that they had experienced no negative or unpleasant effects from adopting a nondiscriminatory policy.

There appears to be a typographical error on line 6 of page 7.
We hope this session of Congress will enact legislation along the lines of S. 1732.

Sincerely yours,

MATTHEW E. WELSH,
Governor.

CONSTITUTIONAL BASES FOR THE PUBLIC ACCOMMODATIONS BILL—A BRIEF ON THE
CONSTITUTIONAL ISSUES PREPARED AT THE REQUEST OF THE COMMITTEE BY PROF.
PAUL A. FREUND OF HARVARD LAW SCHOOL

I. THE COMMERCE POWER

1. *Objectives of legislation enacted under the Commerce Clause*

The mobility of persons and goods in our society has marked many problems, otherwise local, as issues of national concern. Time and again Congress has responded by legislating under the Commerce Clause of the Constitution, to reach what it regarded as an abuse or an evil in the State of origin or production or in the State of destination or consumption. To cope primarily with abuses in the State of origin Congress has enacted such statutes as the Sherman Act, the child-labor law, the Fair Labor Standards Act, and the Labor Relations Act. To deal with abuses or injuries in the State of destination we have had the lottery ticket law, the Mann Act, the pure food and drug legislation, the Federal Trade Commission Act and its supplements. It is clear that the power under the Commerce Clause is adapted to a wide variety of ends; goods may be excluded from interstate commerce though they are harmless in themselves, if they may be used for harmful or immoral purposes by the recipient (e.g., lottery tickets), and local activities may be regulated even though they do not affect interstate commerce in a competitive way, if they involve a hazard to the consumer of goods that have utilized the channels of interstate commerce (e.g., the retailing of foods and drugs).

More particularly, discrimination of one kind or another has been a common target of legislation under the Commerce Clause, quite apart from the conspicuous case of carriers and facilities connected therewith. Antiunion discrimination in the hiring or discharge of employees is the major object against which the Labor Relations Act is directed. Discrimination in pricing among purchasers is the object against which the Robinson-Patman Act is leveled. Similarly, the protection of consumers or patrons is the aim of much legislation under the commerce power: the protection of the ignorant or gullible against deception, in laws requiring labeling of foods or of textiles and in laws dealing with the marketing of securities; the protection of the physically susceptible against organic harm, in the pure food and drug laws; the protection of the financially incapable against their own propensities, in the lottery law.

Thus the objective of the public accommodations bill—protection against discrimination, and protection at the point of destination of persons or goods, when they are consumers or patrons, is by no means an unparalleled one in the exercise of the commerce power. It remains to consider more closely the patterns of legislation under the clause and the question of coverage, as they bear on the pending bill.

2. *Patterns of legislation*

Two major legislative techniques have been employed under the Commerce Clause. One is to regulate practices local in themselves that substantially affect commerce among the States. Familiar instances are the antitrust laws (as applied to contracts, boycotts, or strikes), the Federal wage and hour legislation, and the guarantee of collective bargaining. As the Court said in *United States v. Darby*, 312 U.S. 100, 119 (1941), "But long before the adoption of the National Labor Relations Act this Court had many times held that the power of Congress to regulate interstate commerce extends to the regulation through legislative action of activities intrastate which have a substantial effect on the commerce or the exercise of the congressional power over it." The second pattern or technique of legislation under the clause is to prohibit the use of the channels of interstate commerce where such use facilitates or makes more profitable an evil or abuse such as child labor in the State of origin or mislabeling in the State of consumption. The Fair Labor Standards Act utilizes both techniques.

The bill follows the first of these patterns. Its findings are well within the legislative models that rest on the effects of local practices on commerce among the States. In this connection it is worth noting that the constitutional test takes account not merely of the effects of the individual practices of a particular establishment but of the aggregate or cumulative effect of such practices on a national scale. The Supreme Court had occasion just this year to restate this proposition, in a case arising under the National Labor Relations Act. The proceeding involved a New York retailer of fuel oils, whose operations were local, and who had purchased within the State a "substantial amount" of oil products from a supplier who in turn had purchased most of its products from sellers outside the State. The labor practices of the retailer were held to fall within the statute and the constitutional range of Federal power. The Court said, quoting the earlier decision in *Polish National Alliance v. N.L.R.B.*, 322 U.S. at 648: "Whether or no practices may be deemed by Congress to affect interstate commerce is not to be determined by confining judgment to the quantitative effect of the activities immediately before the Board. Appropriate for judgment is the fact that the immediate situation is representative of many others throughout the country, the total incidence of which if left unchecked may well become far reaching in its harm to commerce." *N.L.R.B. v. Reliance Fuel Oil Corp.*, decided January 7, 1963, unanimously and per curiam, 371 U.S. 224.

3. Statutory coverage; the question of vagueness; suggestions for drafting

The operative definitions in the bill are contained in section 3. Subsections (1) and (2), relating to places of lodging for transient guests and places of entertainment, are straightforward and should not produce any troublesome doubts concerning coverage. The more complex definition relates to retail establishments of various kinds, described in subsection (3). Of the four alternative criteria provided for such establishments, the second (paragraph (ii)), should afford clear guidance for a great many; i.e., those which sell goods a "substantial portion" of which has moved in interstate commerce. Where this criterion is satisfied, no further test of coverage need be considered.

The problem of vagueness really centers on paragraph (iii), a kind of residual clause for retail establishments: "the activities of such place of business otherwise substantially affect interstate travel or the interstate movement of goods in commerce." Certain points can be made in mitigation, or extenuation, of the element of indefiniteness here. Since this is meant to be coextensive with constitutional power, the decisions under such statutes as the Sherman Act and the Labor Relations Act, which are similarly based, will be useful guides. Moreover, the sanctions provided in the bill are limited to injunctive relief, so that there would be a judicial determination and warning of coverage before any penalties attached for violation; in this respect the problem of indefiniteness is much less severe than, for example, in the Sherman Act, which carries criminal sanctions as well.

Nevertheless, after making these allowances, the question remains whether paragraph (iii) of section 3(a) (3) is really necessary, and whether a different kind of residual clause might be included that would avoid such vagueness as the paragraph entails. The substitution of a phrase such as "in interstate commerce" would aggravate rather than mitigate the difficulty, in view of the wavering and uncertain lines that have been drawn in the application of that concept under the Federal Trade Commission Act and early versions of the Federal Employers Liability Act. See, e.g., *F.T.C. v. Bunte Bros.*, 312 U.S. 349 (1941); *F.T.C. v. Cement Institute*, 333 U.S. 683 (1948); *Shanks v. Delaware, L. & W. RR.*, 239 U.S. 550 (1916). A more useful substitute would be a clause providing that in the case of any establishment described in section 3(a) (3) which does not meet the criteria of paragraphs (i), (ii), or (iv), and which has engaged or is about to engage in prohibited practices, it shall be enjoined, while such practices occur, from selling goods that have moved in interstate commerce and from acquiring such goods through the channels, directly or indirectly, of interstate commerce. This provision might be added to section 5, the enforcement section.

The constitutional basis for such a provision is found in what was described above as the second pattern of legislation under the Commerce Clause. In the interest of consumers Congress has recognized the integral nature of the process of distribution, as in the food and drug legislation, and the Court has sanctioned this exercise of power. In an early case under the Food and Drugs Act, the Court held the application of the labeling provisions of the act to a retailer

even after the articles were removed from their original package for sale to local purchasers. *McDermott v. Wisconsin*, 228 U.S. 115 (1913). It is now established that the act may be applied to the retailer even though he has purchased the articles from a local wholesaler or distributor, where they reached the wholesaler from another State, and even though they were properly labeled when they reached the retailer. *U.S. v. Sullivan*, 332 U.S. 689 (1948).

Such a provision would in principle be a counterpart of the child-labor section of the Fair Labor Standards Act (29 U.S.C. sec. 212), which prohibits the interstate shipment of goods produced in any establishment where within 30 days prior to removal therefrom "any oppressive child labor has been employed." All products of such an establishment are kept out of interstate commerce, not merely those products on which child labor has been employed. If a producer wishes to preserve the supposed advantages of child labor, he must confine himself to a market in his own State. Under the suggested provision, if a retail establishment not otherwise subject to the commerce definitions of the act wishes to preserve the supposed advantages of a racially selected clientele, it must confine itself to dispensing products of its own State. The interstate shipper himself could be brought into the plan by requiring him to obtain a warranty of non-discriminatory merchandising from his purchaser, and so on down the line, but this would be needlessly cumbersome and is adverted to here only to show that a more formal linkage to the shipper is possible without varying the substance of the regulation.

Adoption of such a proposal would by no means obliterate the limits on congressional power under the Commerce Clause. Like the great variety of regulations that have been sustained, this one rests on a functional relationship between the facilities of interstate commerce and the abuse or evil at which the Federal measure is directed. It would thus differ fundamentally from hypothetical excesses of Federal authority such, for example, as a Federal code of marriage or divorce enforced by the closing of the channels of interstate commerce to violators of the code.

The committee may wish to consider two or three other suggestions for drafting, for the sake of greater assurance and clarity. It has been assumed that section 3(a) (3) (III), as drawn, is an alternative and independent catchall provision, not limiting or qualifying the preceding paragraphs (i) and (ii); that is, that the phrase "otherwise substantially affect interstate commerce" does not imply that in the case of an establishment meeting the tests of (i) and (ii) it must also be shown that its individual practices "substantially affect" interstate commerce. It would be helpful if the findings in section 2 made this plainer, by stating that the cumulative and aggregate effect of the described practices substantially affects commerce among the several States. Cf. *N.L.R.B. v. Reliance Fuel Oil Corp.*, discussed above.

The findings might also include a statement that concerted refusals to patronize establishments that discriminate have led to sympathetic consumer boycotts in other States, directed at establishments under the same ownership or control. The Commerce Clause speaks of commerce "among the several States," which Chief Justice Marshall took to mean "that commerce which concerns more States than one," a concept more encompassing in some respects than the familiar phrase "interstate commerce." See *Gibbons v. Ogden* (9 Wheat. 1, 194 (1824)); *Hughes J.*, in *Minnesota Rate Cases* (230 U.S. 352, 398 (1913)). Another finding might state the fact that the channels of interstate commerce are used to facilitate and make more profitable the businesses practicing discrimination. That a discriminatory outlet enjoys the benefits of a nationwide source of supplies is surely relevant to the issue of Federal authority. Such a finding would be particularly relevant if the additional enforcement measure were adopted, but it would be helpful, as it is true, in any event.

4. Rights of property and freedom of association

Every exertion of power under the Commerce Clause has involved some restriction on the use of property or the exercise of liberty while at the same time enlarging the effective liberties and the proprietary interests of others. This is true of any significant regulation enacted to promote social justice. It is hardly necessary to pursue this truism here, except to underscore its pertinence to the issue of discrimination. The merchant who is forbidden by the Robinson-Patman Act to discriminate in price among his customers, and the business that is forbidden by the Labor Relations Act to discriminate on the basis of union activities among its employees, bear witness both to the congressional regulatory policy and to its constitutional validity under the guarantee that persons shall

not be deprived of liberty or property without due process of law. The employer's claim to be free to set his own terms for his employees' organizational activities, as part of his rights as owner of the business, was rejected, and not for the first time, in the *Labor Board* cases. The Court relled, for this issue, on an earlier decision under the Railway Labor Act, *Texas & N.O. R.R. v. Brotherhood of Ry. Clerks* (281 U.S. 548 (1930)). The employer's claim was pressed with special force in the *Associated Press* case, coupled as it was with the claim to freedom and independence of the press. But the Court again rejected it, pointing out that the act permits a discharge for any reason other than union activity. *Associated Press v. N.L.R.B.* (301 U.S. 103 (1937)). The problem of evidence of motive is, if anything, more intricate and difficult in such cases than in refusals to serve persons of color.

The principle of these cases is not, of course, confined to the employer's side or to the employment relationship. Labor unions themselves may be required to admit to membership on a racially nondiscriminatory basis. When a union attacked this provision of the New York civil rights law as an infringement of its rights of property and liberty, including the right to choose one's associates, the argument was sharply and unanimously rejected. *Railway Mail Assn. v. Corsi*, 326 U.S. 88 (1945). Mr. Justice Reed, for the Court, said (pp. 93-94): "We have here a prohibition of discrimination in membership or union services on account of race, creed, or color. A judicial determination that such legislation violated the 14th amendment would be a distortion of the policy manifested in that amendment, which was adopted to prevent State legislation designed to perpetuate discrimination on the basis of race or color." Mr. Justice Frankfurter was even more summary in a concurring opinion (p. 93): "Apart from other objections, which are too unsubstantial to require consideration, it is urged that the Due Process Clause of the 14th amendment precludes the State of New York from prohibiting racial and religious discrimination against those seeking employment. Elaborately to argue against this contention is to dignify a claim devoid of constitutional substance." The same principle, with a citation to the foregoing case, served to sustain the constitutional validity of the District of Columbia law prohibiting discrimination on account of race or color in a restaurant. *District of Columbia v. John R. Thompson Co.*, 346 U.S. 100 (1953). The unanimous opinion, by Mr. Justice Douglas, stated (p. 109): "and certainly so far as the Federal Constitution is concerned there is no doubt that legislation which prohibits discrimination on the basis of race in the use of facilities serving a public function is within the police power of the States." On the issue of rights of property and association, the same conclusion applies as well to national legislation.

5. An issue of legislative policy, not constitutional power

The judicial history of the Commerce Clause has been, with the rare exceptions (like the ill-starred child-labor decision, later overruled), a record of support of Congress in dealing with commerce that concerns more States than one. At each step there was a vigorous effort by counsel to limit the power on the ground that in some aspect the application of the power was novel. Thus it was argued, on various occasions, that the power to regulate did not include the power to prohibit; that only articles harmful or noxious in themselves could be excluded; that commerce signified goods, not the movement of persons; that after goods were removed from their original package and held for local sale they were in the sole control of the State legislature; and that this was true at all events if the goods were both acquired and sold within the State. All of these contentious efforts proved unavailing in the face of a genuine occasion for national regulation. Fifty years ago, in the white-slave case, Justice McKenna remarked impatiently on these attempts to circumscribe the power of Congress (*Hoke v. U.S.*, 227 U.S. 303, 320): "Congress is given power to regulate commerce with foreign nations and among the several States. The power is direct, there is no word of limitation in it, and its broad and universal scope has been so often declared as to make repetition unnecessary. And besides, it has had so much illustration by cases that it would seem as if there could be no instance of its exercise that does not find an admitted example in one of them. Experience, however, is the other way, and in almost every instance of the exercise of the power differences are asserted from previous exercises of it and are made a ground of attack. The present case is an example."

The issue is one of legislative policy, not constitutional power. "The authority of the Federal Government over interstate commerce," the Supreme Court has said, "does not differ in extent or character from that retained by the States

over intrastate commerce." *U.S. v. Rock Royal Co-operative*, 307 U.S. 533, 569 (1939). The question is whether the same power that has been used in the interest of preventing deception, disease, and immorality, as well as discrimination against members of unions and against small business, shall be utilized in the interest of preventing discrimination among patrons of establishments whose practices have repercussions throughout the land and which take advantage of the facilities of our national commercial market for their patronage or their supplies or both.

Perhaps a word should be added about the refusal of the Supreme Court in the *Civil Rights Cases* of 1883 to uphold the Civil Rights Act of 1875 by virtue of the Commerce Clause. That act was addressed to carriers, hotels and inns, and public places of entertainment. It would undoubtedly have been more difficult then than now, given the nature of the Nation's economy, to frame an effectively comprehensive law under the commerce power. However, that may be, the short answer is that the act was not so framed, it was a criminal statute, and the Court was unwilling to recast the operative definitions of coverage in what would have been an *ex post facto* act. The Court regarded the applicability of the commerce power as "a question which is not now before us, as the sections in question are not conceived in any such view" (109 U.S. 19).

II. THE 14TH AMENDMENT

The relevant provisions of the amendment are contained in section 1, in the form of prohibitions against the States; and section 5, which empowers Congress to "enforce, by appropriate legislation, the provisions of this article." The immediate purpose of the amendment was to validate the Civil Rights Act of 1866, which was directed to acts under color of State law. When in 1875 Congress undertook to prohibit, not acts under color of State law, but discriminatory practices by public carriers, inns, and theaters, the statute was held to exceed the authority conferred by the amendment (*Civil Rights Cases*, 109 U.S. 3 (1883)).

That decision has not been overruled. When it is asked why this is so, and what the prospects of overruling are, the best clues to an answer lie in the cloudiness of the meaning of "overruling" the decision. It is easy enough to state the principle on which the cases were decided: that only acts for which the State is in fact responsible, through one of its agencies, are comprehended by the amendment. But to state the principle that would underlie an overruling is far from easy. The dissent of Justice Harlan is itself not wholly clear, but at all events he did not take the position that all private action could be reached by Congress. What is involved is not simply an *ad hoc* determination, or an appeal to moral sentiment, or a problem of choice between the slogan of property rights and the slogan of public responsibility of public enterprises. Because the 14th amendment is spacious in its guarantees (equal protection and due process), and is cast largely in terms of prohibitions that are self-executing (by way at least of injunctive relief and defenses to legal claims, without enforcement legislation), any decision overruling the *Civil Rights Cases* has implications for judicial power and duty that transcend the immediate controversy. Such a decision would have a momentum of principle that might carry it far beyond the issue of racial discrimination or public accommodations. The point is not that the step should therefore be rejected; it is that if the step is taken, it should be done with clear awareness of its larger implications. In this respect it differs qualitatively from a step taken under the Commerce Clause, for that is primarily a grant of legislative power to Congress, which can be exercised in large or small measure, flexibly, pragmatically, tentatively, progressively, while guaranteed rights, if they are declared to be conferred by the Constitution, are not to be granted or withheld in fragments. Therefore it is necessary to arrive at some conception of the range of rights which an overruling of the *Civil Rights Cases* would create for the courts and the Congress to enforce.

1. *Equal protection and due process*

These are the guarantees of the amendment which have been most intensively applied against official State action. In considering their possible applications following an overruling of the *Civil Rights Cases*, three levels of questions are raised: To what enterprises, to what activities of those enterprises, and by what standards shall the applications be made?

(a) *What enterprises*.—If the extension were limited to public utilities in the strict sense, those enterprises having a duty, under the common law or statutes of the State which created them, to serve the public generally, there might be

no constitutional problem, for the State itself would be discriminating in its law if its courts would enforce this duty on behalf of all except members of a particular race or religion. But public utilities in this sense are a narrow class of enterprises: public carriers and inns for lodging; and it would have to be shown (as it was not in the *Civil Rights Cases*) that the State made a discrimination in enforcement of the general legal right.

It has been suggested that a right be conferred against all establishments licensed by the State; the license would be the nexus between State and private responsibility. Licensing varies in scope and function from State to State, and from city to city. It may signify that an establishment has paid a tax, or satisfies sanitary or safety standards, or is operated by qualified persons. To make the constitutional right to be served turn on the presence or absence of a license would thus produce some anomalous results. Moreover, a local government would not find it difficult to dispense with the requirement of a license while retaining control over sanitary, safety, and similar conditions as well as over tax liability. The standards imposed on an establishment in these respects could be enforced by injunction or civil and criminal penalties, without the device of a license.

There is one type of license which stands on a different footing: a certificate of convenience and necessity, conferring a monopoly or near monopoly. When the State grants such a franchise it prevents potential competitors from operating on a possibly nondiscriminatory basis, and so in a special sense the State may be regarded as contributing to the discriminatory policy followed by its franchiseholder. This application of the 14th amendment has already been recognized without legislation, in connection with the duties of a union holding an exclusive bargaining position under the law and a private bus line holding a franchise. *Steele v. L. & N. RR.*, 323 U.S. 192 (1944); *Boman v. Birmingham Transit Co.*, 280 F. 2d 531 (4th Cir. 1960).

If licensing by itself is a basis for application of the 14th amendment, the question may be raised whether private schools and colleges licensed by a State, or lawyers, or indeed all corporations operating under State charter, can properly be omitted from the coverage of the bill. Similarly, if licensing gives rise to constitutional duties and corresponding rights, it is hard to see how any exemptions could be made on the basis of size, any more than other constitutional rights, like that of freedom from censorship, can be made to turn on the size of an establishment.

An alternative basis for identifying certain enterprises with the State for purposes of the 14th amendment is the concept of businesses affected with a public interest, a category that for many years was used to signify those enterprises that could be subjected to State control over prices and rates. But even for this permissive purpose, the classification proved unsatisfactory and artificial, and when in 1934 this criterion was frankly abandoned by the Court the decision was generally welcomed as clearing the constitutional atmosphere. *Nebbia v. N.Y.*, 291 U.S. 502 (1934). Mr. Justice Roberts said (p. 536): "It is clear that there is no closed category of businesses affected with a public interest. . . . In several of the decisions of this Court wherein the expressions 'affected with a public interest' and 'clothed with a public use' have been brought forward as the criteria of the validity of price control, it has been admitted that they are not susceptible of definition and form an unsatisfactory test of the constitutionality of legislation directed at business practices or prices."

(b) *What practices.*—If agreement is reached on a definition of establishments subject to the 14th amendment, the further question must be faced of the activities or practices that are encompassed. Is discrimination in employment included equally with discrimination in service? If one is covered and not the other, is Congress determining the bounds of constitutional guarantees, since injunctive remedies would be open even apart from the statute to restrain threatened infringements of constitutional rights. If Congress decides to utilize the 14th amendment and does not mean to limit its new coverage to the kinds of practices specified, a saving clause in the bill to that effect would be appropriate. Attention might also be given to the question of jurisdictional amount; under present provisions the \$10,000 amount is dispensed with in cases under laws regulating commerce, and actions for violations of civil rights "under color of law."

The amendment relates, of course, to many practices besides discrimination. The Due Process Clause absorbs all the basic guarantees of the Bill of Rights. Questions will arise over the applicability of these to the establishments that

are assimilated to the State: whether, for example, such an establishment could make preferential contributions to a church, and whether its intracorporate procedures must satisfy standards of due process of law.

(c) *What standards.*—If the private licensee takes on to some extent the constitutional duties of the public licensor, there is the further problem of the standards for defining those duties. If an official licensor gave preference to the sons of licensees a serious issue would be raised under the equal-protection clause. *Kotch v. Board of Pilot Commissioners*, 330 U.S. 1753 (1947). If the licensee himself followed a policy of nepotism in his business, would a similar constitutional issue be raised? In all likelihood a new set of constitutional standards would be formulated for private practices covered by the amendment—a set conforming neither to the code of fairness for purely private conduct nor to the constitutional code for governments and their agencies.

The combination of these uncertainties—the class of establishments, the kinds of practices, and the standards to be set, may well account for the Court's adherence to the basic principle of the *Civil Rights Cases*. It is not a matter of lack of sympathy for the moral claims asserted; the real problem is an institutional one, whether those claims are to be vindicated, in private relations, through processes of legislation under a congeries of powers (commerce, defense, spending), or whether they are to open up new areas of direct constitutional relationships which will call for judicial creativity on a formidable scale. If the Court is to be persuaded to overrule the *Civil Rights Cases*, the most effective approach would be to emphasize the power conferred by section 5 of the amendment on Congress, and to draw as wide a gap as possible between this and the self-executing, judicially enforced prohibitions of section 1. If this is so, the responsibility on Congress is all the greater to think through the implications of its action for constitutional claims that are not precisely those recognized in the bill but in principle may be comparable.

2. Privileges and immunities of citizens

What has been said of the Equal Protection and Due Process clauses is also pertinent to the citizenship clause, which is likewise a prohibition against abridgment by the States. The latter clause would not, of course, afford protection to resident or visiting aliens. Ever since the *Slaughterhouse* cases in 1873, moreover, the privileges of national citizenship have been confined to those interests peculiar to the relationship of a citizen to the National Government, such as the right to travel to the seat of government, diplomatic protection abroad, safe custody in the hands of a Federal marshal, and the like. Even the interest in traveling from one State to another, irrespective of poverty, was placed by a majority of the Court on the ground of the Commerce Clause rather than privileges of citizenship. *Edwards v. California*, 314 U.S. 160 (1941). The reasons for this reluctance to expand the concept were explained in a dissenting opinion of Justices Stone, Brandeis and Cardozo (Justices not unsympathetic to claims of civil liberties) in *Colgate v. Harvey*, 296 U.S. 404, 445 (1935), overruled in *Madden v. Kentucky*, 309 U.S. 83 (1940). They are reasons similar to those which have deterred the Court from overruling the *Civil Rights Cases*—the at-large character of the new class of constitutional rights that would be created.

3. "Custom"

The phrase "under color of any law, statute, ordinance, regulation, or custom" goes back to the Civil Rights Act of 1866. In its context the term "custom" evidently refers to official action taken as a matter of usage without formal statutory authority, for the operative provisions of that act were guarantees against legal disabilities—the right to sue, to be a witness, to make and enforce contracts, and the like. The custom of officialdom need not be specially mentioned today, since action by a State officer, taken in the absence or even in violation of State law, is covered by the term "color of law." *Screws v. U.S.*, 325 U.S. 91 (1945). To construe "custom" more broadly, to include popular attitudes and practices, would make the existence of constitutional rights turn on an assessment of intangibles community by community; an establishment discriminating against Negroes and Jews might be held to violate the 14th amendment only as to Negroes in one State and only as to Jews in another, depending on prevalent community practices.

The Supreme Court did not find it necessary to adopt the argument based on custom in the sit-in cases of last term. Whether it will do so in the sit-in cases held over until next term is problematical. The cases may be decided

on grounds that will again avoid the ultimate issue, e.g., that the criminal trespass statutes are given an unnatural meaning in being applied to sit-in demonstrators. Even if the Court should reach the ultimate issue and decide in favor of the sit-in defendants, the decision may be put on the ground of State involvement through the police and the State courts. At all events, lower courts which have applied the 14th amendment to franchised carriers have declined to extend it to restaurants by equating custom with State responsibility. *Williams v. Howard Johnson's Restaurant*, 268 F. 2d 845 (4th Cir. 1959); *Williams v. Hot Shoppes, Inc.*, 293 F. 2d 835 (D.C. Cir. 1961).

4. Precedents extending 14th amendment to certain "private" action

These decisions fall into several categories. One is the class of cases where the State has delegated certain governmental functions to private groups, and in carrying them out the groups are held to constitutional duties. Instances are the conduct of party primaries, which are an integral part of the political electoral process, and the conduct of a company-owned town. *Smith v. Allwright*, 321 U.S. 649 (1944); *Marsh v. Alabama*, 320 U.S. 601 (1943). The latter case is of interest because it concerns rights of assembly and religious exercise, illustrating the reach of the amendment beyond cases of discrimination. Another class includes cases where the State may fairly be held responsible for the private conduct, by granting an exclusive or near-exclusive franchise, or by providing special facilities to carry out the private plant. *Steele v. L. & N. RR.*, 323 U.S. 192 (1944); *Pennsylvania v. Board of City Trusts*, 353 U.S. 230 (1957); cf. same case, 357 U.S. 570 (1958). A further group includes cases where State-owned facilities are involved, through lease or similar arrangement. *Burton v. Wilmington Parking Authority*, 365 U.S. 715 (1961). The decision in *Shelley v. Kraemer*, 334 U.S. 1 (1948), holding unconstitutional the judicial enforcement of a restrictive housing covenant, is susceptible of various interpretations, but the reiteration in the opinion of the fact that there were a willing seller and a willing buyer suggests that the State court was in those circumstances regarded as the effective cause of the discrimination.

CONCLUSION

From this study several conclusions are indicated.

1. The commerce power is clearly adequate and appropriate. In fact more extensive use of the commerce power can be made if it is desired to broaden the coverage and reduce its uncertainties in marginal cases. No impropriety need be felt in using the Commerce Clause as a response to a deep moral concern. Where social injustices occur in commercial activities the commerce power is a natural and familiar means for dealing with them.

2. There is no serious question of the right of association or of property or of privacy as a barrier to the legislation, applicable as it is to commercial places of public accommodation.

3. Whether the Supreme Court would sustain the legislation under the 14th amendment is more uncertain, because of the necessity to find principles of inclusion and exclusion in opening up a new class of constitutional claims against private enterprises. The Court may be the readier to accept this basis for the legislation if a consensus is reached as to those principles by the proponents of this constitutional approach.

PAUL A. FREUND.

MEMORANDUM BY PROF. ROBERT H. RODES, JR., ON THE PROPOSED INTERSTATE PUBLIC ACCOMMODATIONS ACT OF 1963, RECEIVED FROM DEAN JOSEPH O'MEARA, NOTRE DAME LAW SCHOOL

In this memorandum, I will deal, first, with the constitutionality of the bill as it stands. Second, I will set forth certain proposed revisions of the bill and, third, I will comment on the reasons for my proposed revisions.

I. CONSTITUTIONALITY OF THE BILL

The draft invokes two bases of Federal power, the commerce clause and the 14th amendment. The latter I regard as a mere makeweight, since the substantive provisions make no attempt to designate expressly classes of situations in which the requisite State action obtains. A number of my proposed revisions represent an attempt to seek a firmer basis in the 14th amendment by express references to such classes of situations.

The crucial question, then, is whether the references to interstate commerce in section 3 constitute adequate bases for Federal power when considered in the light of the findings set forth in section 2. There seems to be no doubt that, if section 3 can be sustained, sections 4 through 6 will be considered appropriate ancillaries to it.

In the following discussion, then, I will take up the provisions of section 8 serially with regard to the kinds of connection with interstate commerce which they require.

Paragraph 3(a)(1).—Cutting the hair of interstate travelers has been held not to be interstate commerce within the meaning of the Sherman Act. *Hotel Phillips, Inc. v. Journeyman Barbers*, 195 F. Supp. 664 (W.D. Mo. 1961); affirmed 301 F.2d 443 (8th Cir. 1962). This would seem to weigh against the constitutionality of the paragraph in question. On the other hand, the Supreme Court does not regard the Sherman Act as necessarily going as far as Congress has power to go. *United States v. Yellow Cab Co.*, 382 U.S. 218 (1947); and it seems quite likely that the NLRB would be allowed to take jurisdiction over persons accommodating interstate travelers on the theory that their activities affect interstate commerce. Also, the difficulties described in subsection 2(b) constitute a far more serious burden on commerce than the inability of interstate travelers to get haircuts. In my opinion, this burden adequately supports an exercise of Federal power.

The class of transient guests from other States, as distinct from interstate travelers, is difficult to define, but with a member of that class either goes home or settles down locally and ceases to be a "transient." It seems reasonable to deal with him in the same way as an interstate traveler.

The paragraph under consideration would also forbid discrimination against local people in a place where interstate travelers are lodged. This is not directly within the Federal commerce power, but ought to stand up under the principle allowing incidental local effect to give administrative viability to a Federal regulation of interstate commerce. For instance, an employer producing goods partly for interstate commerce, partly for local sale, may be required to comply with the Fair Labor Standards Act as to his whole operation. *Mabee v. White Plains Pub. Co.*, 327 U.S. 178 (1946).

Paragraph 3(a)(2).—This seems amply supported by a great number of anti-trust cases holding that the exhibition of movies shipped in interstate commerce, and the putting on of performances or athletic contests promoted through interstate commerce, are within the ambit of the Sherman Act. *Toulin v. Anti-trust laws secs. 1-20-7.25* (Supp. 1963).

Paragraph 3(a)(3)(i).—The considerations advanced in support of 3(a)(1) seem equally applicable here. The word "substantial," because of its vagueness, would raise constitutional problems if this were a criminal statute, or even a civil statute affording retrospective relief. Here, however, only prospective relief is available, so there would be a judicial interpretation of the applicability of the statute to a given establishment before that establishment is required to comply with it.

Paragraph 3(a)(3)(ii).—Congress has power to regulate the label under which a product is kept for sale after shipment in interstate commerce. *United States v. Sullivan*, 382 U.S. 689 (1948). The regulation of the persons to whom it is offered seems to me to present an indistinguishable situation. The further step of regulating the entire establishment, if a substantial part of its merchandise is subject to Federal regulation, is in accord with familiar principles. *United States v. Darby*, 312 U.S. 100 (1941). Also, the NLRB has long used volume of interstate trade as a jurisdictional criterion, without serious objection.

Paragraph 3(a)(3)(iii).—This is the criterion used in the National Labor Relations Act, and ought to be as constitutional here as it is there.

Paragraph 3(a)(3)(iv).—This is a typical ancillary provision used to prevent escaping the main body of the law by technicality or subterfuge.

II. PROPOSED REVISIONS IN BILL

1. SEC. 2. Add a new subsection (f):

"(f) The public policy of the United States calls for equal treatment of all citizens without regard to race, color, religion, or national origin. The practices described in subsections (d) and (e) constitute a misuse of interstate commerce for purposes contrary to the public policy of the United States."

Re number present subsections (f) through (i) in subsection (j) (present subsection (i)); after "burdens on" add the words "misuse of".

2. Szo. 3. subsection (a). Add a new subparagraph (iv) to paragraph (3): "(iv) such place or establishment is licensed or otherwise regulated as to its manner of serving the public by any state or political subdivision pursuant to any law, statute, administrative practice, or other scheme of regulation which does not include an effective requirement that the goods, services, facilities, privileges, advantages, or accommodations of such place or establishment be made available to all persons without discrimination or segregation on account of race, color, religion, or national origin."

Renumber present subparagraph (iv).

3. Add new paragraphs (4) and (5):

"(4) Any common carrier, inn, or other establishment which is required under applicable principles of State law, or would be required under the common law or other system of jurisprudence adopted by the State as the basis for its laws, to extend its services to all persons applying for them unless there be reasonable grounds for refusal, if such requirement has been so repealed, abrogated, modified, or interpreted by the applicable laws, statutes, ordinances, judicial decisions or other sources of State law as to pursue, implement, or recognize a policy, custom, or practice of permitting, encouraging, or requiring discrimination or segregation on account of race, color, religion, or national origin.

"(5) Any business affected by any law, ordinance, practice, custom, or usage of any State or political subdivision thereof which purports to require or encourage discrimination or segregation on account of race, color, religion, or national origin."

4. Add a new section 5:

**"PROHIBITION AGAINST USE OF THE MAILS OR OF INTERSTATE COMMERCE IN
FUTHERANCE OF DISCRIMINATORY PRACTICES**

"Sec. 5(a). No person shall knowingly send, receive, or cause to be sent or received through the mails or by shipment in interstate commerce

"(1) any motion picture film to be exhibited publicly for profit on any occasion at which there will not be afforded to all persons a full and equal opportunity to attend such exhibition without discrimination or segregation on account of race, color, religion, or national origin.

"(2) any foodstuffs to be served in a hotel, restaurant, lunchroom, lunch counter, soda fountain, or other public place engaged in selling food for consumption on the premises, if such place does not extend to all persons a full and equal opportunity to be served without discrimination or segregation on account of race, color, religion, or national origin.

"(3) any goods, wares, or merchandise to be offered for sale to the public in any place where, or on any occasion at which, all persons seeking to purchase them will not be afforded a full and equal opportunity to do so without discrimination or segregation on account of race, color, religion, or national origin.

"(4) any equipment to be used in the operation of any hotel, restaurant, lunch counter, soda fountain, or other public place engaged in selling food for consumption on the premises, any motion picture house, theater, or other place of public entertainment, any retail shop, department store, market, drugstore, gasoline station, or other public place which keeps goods for sale, or any other establishment where goods, services, facilities, privileges, advantages, or accommodations are held out to the public for sale, use, rent, or hire, if all persons are not to be afforded the full and equal opportunity to enjoy the goods, services, facilities, privileges, advantages, or accommodations of such place or establishment, without discrimination or segregation on account of race, color, religion, or national origin.

"(b) No person shall travel or cause another to travel in interstate commerce for the purpose of presenting publicly for profit any play, show, athletic contest, exhibition, performance or other entertainment on any occasion at which there will not be afforded to all persons a full and equal opportunity to attend such entertainment without discrimination on account of race, color, religion, or national origin."

Renumber present sections 5 and 6. In present section 5 (new section 6) subsections (a) and (b) add "or section 5" after reference to "section 4".

III. COMMENTS ON PROPOSED REVISIONS

Proposed subsection 2(f). Congress may set forth a national public policy and prohibit any use of interstate commerce that is inconsistent with that policy.

That seems to be the general effect of *United States v. Darby*, 312 U.S. 100 (1941), and the basis for congressional action forbidding the interstate transportation of prostitutes, gambling devices, unregistered securities, etc. There is a reference to a misuse of interstate commerce in *Brooks v. United States*, 267 U.S. 432 (1925) sustaining the National Motor Vehicle Theft Act. The use of that terminology here is calculated to give further support to the provisions of section 3, and especially to support my proposed section 5.

Proposed subparagraph 3(a) (3) (iv). There is no clear precedent for this, but it seems a reasonable extension of the doctrine that the abolition of a remedy is State action for 14th amendment purposes (see below). In one case, there is an existing remedial structure from which the State deletes one remedy; in the other the State creates a new structure in which a particular remedy ought to be included but is not.

Proposed paragraph 3(a) (4). This deals with the situation in which the State has done away with a common law principle of nondiscrimination, or so interpreted it as not to be violated by discrimination against Negroes. There is ample authority that the doing away with a common law remedy is State action and must stand or fall with the policy it is calculated to implement. The numerous cases dealing with the abolition of the civil action for alienation of affections or breach of promise to marry, while they uphold the State action in question, deal with it in these terms. So do many cases dealing with the constitutionality of displacing the common law cause of action for negligence by a workmen's compensation proceeding, e.g., *New York Central R.R. v. White*, 243 U.S. 183 (1917). In *Truax v. Corrigan*, 257 U.S. 312 (1921) the Supreme Court held that a State statute doing away with injunctive relief in what the Court considered an especially compelling case for such relief was violative of the 14th amendment. While that case is presumably no longer good law in the labor situation in which it arose, it should still be authority for determining what constitutes State action.

Proposed paragraph 3(a) (5). This is intended to embody the doctrine laid down in the recent sit-in cases as to what constitutes State action.

Proposed section 5. This is intended to invoke more directly the additional source of Federal power referred to in my discussion of my proposed subsection 2(f).

ROBERT E. RODES, JR.,
Professor of Law,
Notre Dame Law School.

HERBERT WECHSLER,
The Law School, Columbia University,
New York, N.Y., July 18, 1963.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR: Thank you for your letter of July 12. I am happy to learn that you included my comment on Arthur Krock's column of July 4 in the record of the committee hearings on the public accommodations civil rights bill. Nothing Mr. Krock said in his discussion of my letter in his column of July 16 makes me in the least repentant.

In response to your invitation to comment on the wisdom—as opposed to the constitutionality—of resting legislation in this field upon the commerce clause, I submit the following as a brief statement of my views.

First, it is the genius of our legislative institutions that Congress should not and does not intervene by legislation unless and until it is persuaded that there is a problem to be met which concerns the Nation as a whole and which demands a national solution. My own belief is that the problem of discriminatory exclusion from facilities of public accommodation has, unhappily, achieved this national dimension, but whether this is so does not appear to be the question that you put to me and I do not attempt to deal with it in this submission. The question that you say has troubled certain members of the committee is: rather whether as a matter of policy it is wise to use the commerce power for solution of this national problem; and that is the issue I discuss.

Second, assuming, as I do, that there is a national need for Federal action to secure, within reasonable limits, equal access to facilities of public accommodation, I see no unwisdom in relying on the commerce power to accomplish this objective by an act of Congress. As the Supreme Court has frequently de-

clared, the "authority of the Federal Government over interstate commerce does not differ in extent or character from that retained by the States over intrastate commerce." *United States v. Rock Royal Co-operative*, 307 U.S. 533, 569; *United States v. Darby*, 312 U.S. 100, 118. State legislation requiring equal access to various facilities which serve the public generally is, of course, very common in the country. The enactment of an equivalent Federal measure applicable in situations where interstate commerce is involved or is affected seems to me thus a quite conventional employment of the commerce power to achieve a national objective. The measure would, of course, be new but it involves no novel principle or novel use of commerce power and would set no precedent upon this score to cause concern.

I should add that I see nothing fictive in the proposition that the practices to which the measure is directed may occur in or affect "the commerce that concerns more States than one" or, even more plainly, may occur, as the Taft-Hartley Act requires, in an industry which affects such commerce. There are, in fact, effects upon such matters as the free movement of individuals and goods across States lines, the level of demand for products of the national market and the freedom of enterprises engaged in interstate commerce to abandon the restrictions that some of their local competitors may impose. To legislate within the area of such effects on commerce seems to me to fall within the great tradition of the Congress in the exercise of this explicit power.

Third, it is, of course, entirely true that the proposed measure constitutes an interference with the free use of private property, a problem which you say concerns some members of the committee. That problem is both genuine and inescapable. It is, however, wholly unrelated to whether Congress legislates upon the basis of the Commerce Clause or of some other constitutional provision, such as the 14th amendment. The owner's freedom will be equally impaired, whatever Congress chooses as the source of the authority it undertakes to exercise.

On the merits of this problem, I need not point out that you are dealing with an area in which there is an inevitable conflict between the claim for the autonomy of ownership and the claims of individuals whom such autonomy affects adversely and who press for its control in this respect by law. The issue seems to me entirely similar to that dealt with by the National Labor Relations Act, when a similar conflict between employees' rights to organize and employers' rights to hire and to fire freely was resolved in favor of the claims of employees.

I am, myself, persuaded that the circumstances of our time call for the measured establishment of a Federal right to equal accommodation in facilities purporting to serve the general public, but I claim no special wisdom on the subject, which is difficult for all concerned. Anyone who has heard the Vice President's depiction of the problems of a Negro family traveling by motor from the Great Lakes to the gulf is likely to conclude, as I do, that the limitation sought to be imposed on the free use of property is reasonably calculated to protect compelling human values, in which the Nation has a vital long-range interest.

You may make any use of this statement that you deem appropriate.

With high regard, I am,

Faithfully,

HERBERT WESCHLER.

ADDITIONAL STATEMENTS SUBMITTED FOR THE RECORD

STATEMENT OF AMERICANS FOR DEMOCRATIC ACTION, PRESENTED BY JOSEPH L. RAUH, JR., VICE CHAIRMAN FOR CIVIL RIGHTS-CIVIL LIBERTIES

Americans for Democratic Action endorses and supports the testimony of Mr. Roy Wilkins, NAACP executive secretary, presented to this committee on July 22, 1963. Mr. Wilkins stated the moral case for an immediate and complete end of discrimination in public accommodations simply and poignantly. In words that cannot be improved upon:

"The players in this drama of frustration and indignity are not commas or semicolons in a legislative thesis; they are people, human beings, citizens of the United States of America. This is their country. They were born here, as were their fathers and grandfathers before them. And their great-grandfathers. They have done everything for their country that has been asked of them, even to standing back and waiting patiently, under pressure and persecution, for that which they should have had at the very beginning of their citizenship."

Mr. Wilkins speaks for all those who believe in equal rights, be they white or black. We need a strong public accommodations law like S. 1732—now.

What has disturbed ADA, as the Commerce Committee hearings have progressed, is the apparent disagreement over what constitutional provision or provisions should serve as the basis for ending discrimination in public accommodations. The principal constitutional provisions that have been relied upon by the various witnesses are the commerce clause and the 14th amendment. The recent reports in the press that the administration is willing to support both of these approaches is most encouraging, for ADA believes that a combination of the two provisions will serve as the best constitutional predicate for ending discrimination in facilities open to the public.

The basic goal is to end discrimination in all public facilities. For historical and political reasons, and as the most effective means of assuring that all facilities are in fact open to the public, the public accommodations legislation should be based upon both the Commerce Clause and the 14th amendment.

HISTORICAL REASONS

The 14th amendment, as well as the 13th and 15th amendments, have a direct relationship to the history of the Republican Party. The Republicans were the prime movers in the enactment of these amendments in the immediate post-Civil War years. It is they who are responsible for establishing the constitutional framework that gives racial equality an incontrovertible legal basis.

It is the Democratic Party, particularly during the New Deal days, that has been the prime mover in injecting life into the Commerce Clause. The social and economic legislation on the statute books today—legislation that serves as the framework for democratizing our highly industrialized society—is based on the planetary powers of the Commerce Clause.

COMMERCE CLAUSE

Article I, section 8, of the Constitution gives the Congress power "to regulate commerce * * * among the several States * * *." The Supreme Court has already ruled that Congress has authority to regulate racial discrimination under its commerce powers (*Boynton v. Virginia*, 364 U.S. 454 (1960)). In the *Boynton* case the Court held that the Interstate Commerce Act, which forbids discrimination in motor vehicles acting as interstate common carriers, grants to all persons, regardless of race, a Federal right to be served in a restaurant operated as a part of the carrier's terminal facilities although the restaurant was not operated specifically by the carrier.

Congress can quite clearly forbid discrimination at places of public accommodations which utilize supplies or personnel from outside the State. Furthermore, the landmark cases under the Fair Labor Standards Act and other laws predicated upon the Commerce Clause have made abundantly clear that a minimal crossing of State lines is sufficient to permit use of the Commerce Clause for purposes of congressional regulation.

The National Labor Relations Act has even a broader scope since it regulates activities "affecting commerce." Congress may regulate those intrastate activities that affect interstate commerce. The Supreme Court has held that the National Labor Relations Act applies to retailers whose sales are wholly intrastate and only one-ninth of the firm's purchases are outside of the State. See *Meat Cutters v. Fairlawn Meats* (353 U.S. 20 (1957)).

Indeed, Congress even has the authority to regulate the wheat a farmer grows on his own farm, solely for his own consumption, even though the amount he grows is trivial. See *Wickard v. Filburn* (317 U.S. 111 (1942)).

Under these precedents Congress has the authority to prohibit discrimination in public facilities, which might in the ordinary course of events be deemed local, on the ground that such discrimination may adversely affect other establishments engaged in interstate commerce.

In short, Congress clearly has the authority to prohibit discrimination in public facilities under the authority of the Commerce Clause. To argue otherwise is to suggest that Congress has the power to regulate the color of the margarine that goes on the restaurant table but does not have the authority to protect a citizen of color who desires to sit at that table.

FOURTEENTH AMENDMENT

Another appropriate constitutional base for ending discrimination in all public facilities is the 14th amendment. Section 5 of the 14th amendment provides that "Congress shall have power to enforce, by appropriate legislation, the provisions of this article." Section 1 of the amendment provides that no State shall "deny to any person within its jurisdiction the equal protection of the laws." Thus, Congress clearly has power to enforce the equal protection clause.

The argument against Congress acting under the 14th amendment is that the 1883 *Civil Rights Cases* (holding unconstitutional the 1875 public accommodations law) is still good law. This suggests that discrimination by a restaurant, hotel, retail store, or entertainment facility is the action solely of the private owner and not of the State. (The equal protection clause applies only to State denials of equal protection.) But since 1883 there has been a steady broadening of the concept of State action. The argument that discrimination by a restaurant, hotel, retail store, or entertainment facility is solely private action flies in the face of continuing Supreme Court decisions such as *Shelley v. Kraemer* (334 U.S. 1 (1948)) which prohibited State courts from enforcing restrictive covenants and *Burton v. Wilmington Parking Authority* (365 U.S. 715 (1961)), which prohibited discrimination in a restaurant leased from a Delaware governmental agency. In both cases a limited degree of State involvement was deemed adequate to bring the 14th amendment into the picture. These and similar cases point the way toward invoking the 14th amendment wherever the State authorizes, licenses, protects, or regulates private facilities open to the public.

The other argument against the 14th amendment as a constitutional predicate for S. 1732 is that it unconstitutionally regulates private property rights. Such an argument is as outmoded as it is extreme, for it blindly attempts to relegate to the ash heap the ever-ascending precedents which permit regulation of property rights in the public interest. See, e.g., *Nebbia v. New York* (291 U.S. 902 (1934)).

Just as *Plessy v. Ferguson* did not stand the test of time, the reasonable probabilities are that the 1883 decision will one day be overruled or distinguished into oblivion. The 1883 case is a shell that is only waiting for its obituary notice. It is a shell, because on the one side the Court has moved away from the narrow concept of State action, and on the other side the Court has moved away from the idea that property may not be regulated in the public interest.

Although some concern has been expressed that the 14th amendment approach might be rendered nugatory by a State repealing all its laws dealing with authorizations, licenses, protection, or regulation of private facilities open to the public, it is not believed that such a total abnegation of State responsibility is a very real possibility. At any rate, the inclusion of the Commerce Clause as an equal predicate for the bill would remove any incentive for such State repeal of laws in this area.

If any matter of constitutional law can be stated with certainty, it is that the Supreme Court will find the public accommodations bill constitutional on one or both of the above bases. The Court will attach great weight to findings by Congress under the Commerce Clause and equally so to a finding by Congress that there is adequate State involvement under the 14th amendment wherever the State authorizes, licenses, protects, or regulates private facilities open to the public. It becomes almost ludicrous to suggest that the Supreme Court, which has so long protected the rights of Negroes while Congress stood idly by, should now, when Congress at long last does begin to move, find constitutional deficiencies in its action.

SUGGESTED REVISION

Although the findings of title II of S. 1731 include reference to the 14th amendment, the operating sections of title II are drafted solely in terms of the Interstate Commerce Clause. The operating sections use such terms as "traveling in interstate commerce," goods and services "provided to a substantial degree to interstate travelers," and activities which "substantially affect interstate travel or the interstate movement of goods."

Inherent in these above quoted definitions are limitations on Commerce Clause coverage of public accommodations. To avoid these limitations and to utilize fully the 14th amendment underpinning of the bill, we strongly urge that the bill rely equally on both Commerce Clause and 14th amendment in its findings. The operating section should be rewritten to eliminate Commerce Clause limita-

tions. The operating section of the bill should simply forbid discrimination in all facilities open to the public except those which Congress deems it necessary to exempt. (Later we deal with the exemption problem.) Reliance should be placed on both constitutional bases, but neither should serve as a limitation on the public facilities covered by the bill.

Incidentally, there are direct precedents for combining the Commerce Clause and 14th amendment as the constitutional basis for prohibiting discrimination in all facilities open to the public. At least three basic pieces of legislation have relied on more than one constitutional power. The Tennessee Valley Authority was based on three constitutional powers—the war power, the navigation power, and the right to dispose of property. The Holding Company Act and the Securities Exchange Act were both based on the commerce and postal powers of the Constitution.

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ADA strongly opposes exemptions in public accommodations legislation. There is no possible justification for a dollar limitation, in any form, on what is covered by the legislation. It is just as immoral for a small business to discriminate as it is for a big business. A person seeking service at a small lunch counter may be just as hungry as one who sits down at Howard Johnson's.

Congress should follow the experience of the many States that have prohibited discrimination in public accommodations. This experience indicates that economic criteria have no relationship to prohibiting public facilities from discriminating. No sound policy reason exists for Federal legislation to permit exemptions in public accommodations legislation.

Congress has, however, evinced considerable interest in the celebrated Mrs. Murphy. If there is a reason for excluding Mrs. Murphy's guest house, it is not the small size of her place but rather her right of privacy. If Congress chooses to exclude an owner-operated guest house, in which the owner resides, it should be on the basis of privacy—the principle on which State fair housing laws grant exemptions.

ADA strongly opposes using Mrs. Murphy's guest house as a device to enact loopholes into public accommodations legislation on the basis of volume of business. The right of privacy does not apply to restaurants, entertainment facilities, hotels, and public facilities generally.

CONCLUSION

We support early enactment of public accommodations legislation that is part of a civil rights package that will protect all our citizens in all of their rights and avoid daily humiliation for millions of Negro citizens.

We urge that public accommodations legislation be predicated upon both the Commerce Clause and the 14th amendment. The operating section should cover all facilities, large and small, open to the public and the limitations of S. 1732 should be removed. If an exception is made for Mrs. Murphy, it should be only on the right of privacy and only to cover guest houses in which the owner resides. No sound reason exists for any dollar limitation in public accommodations legislation.

STATEMENT OF THE AMERICAN NURSES' ASSOCIATION ON S. 1732, TO ELIMINATE DISCRIMINATION IN PUBLIC ACCOMMODATIONS AFFECTING INTERSTATE COMMERCE

The American Nurses' Association is the organization of about 170,000 registered professional nurses, with constituent associations in 54 States and territories, Puerto Rico, and the District of Columbia. The bylaws of the ANA include a nondiscriminatory provision within the statement of purpose of the organization in article I, section 2, which reads:

"The purposes of the American Nurses' Association shall be to foster high standards of nursing practice, promote the welfare of nurses to the end that all people may have better nursing care. These purposes shall be unrestricted by consideration of nationality, race, creed, or color."

Ever since the national association was founded in 1896 it has offered membership to all qualified professional nurses, regardless of race, color, creed, or national origin. This has not always been true of some of the State associations. However, since January 1962, membership has been open to all qualified professional nurses in the 54 constituent associations.

Since 1946, conscious and increased effort has been made by ANA to eliminate racial and ethnic segregation and discrimination in nursing. By 1950, sufficient impact had been made so that ANA by mutual agreement absorbed the functions of the National Association of Colored Graduate Nurses, thus assuring the Negro nurse of acceptance and recognition within the professional association. The National Association of Colored Graduate Nurses was dissolved at this time.

In 1954, the ANA board of directors, on recommendation of the committee on intergroup relations, adopted a policy specifically authorizing the ANA to support civil rights legislation.

Subsequently, the following statement of principles to guide ANA action was approved by the board of directors in 1956:

"1. A favorable climate of Federal and State law is essential to the achievement of the long-term goals of the intergroup relations program of the American Nurses' Association. The association should promote and support legislation designed to provide a climate in which discriminatory practices affecting nurses, nursing, and health may be eliminated.

"2. All qualified applicants, regardless of race, creed, color, or national origin, should have the same opportunities for sound educational preparation for nursing. Tax funds for the support of nursing education should not be used to initiate or perpetuate discriminatory practices.

"3. Legal restrictions to the full utilization of nursing personnel which are based on race should be eliminated.

"4. Legal restrictions to the unsegregated use of public accommodations should also be eliminated.

"5. Health and welfare programs supported by tax funds should promote and protect the physical, mental, and social well-being of all citizens regardless of race, creed, color, or national origin."

Since 1946 the objectives and goals of the association have been stated in a platform adopted by the house of delegates. One plank which appeared in that first platform and in all subsequent platforms states that the association "will encourage all members, unrestricted by consideration of nationality, race, creed, or color, to participate fully in association activities and to work for full access to employment and educational opportunities for nurses."

The association itself has a role in the continuing education of its members through conducting conferences, meetings, and conventions. Conventions are held biennially and are open to all members. At these conventions, major business of the association is conducted by an integrated house of delegates who represent each jurisdiction. Here the policy decisions are made. Educational programs are held that are designed to assist the nurse in her practice. Attendance at these conventions is generally about 10,000.

In 1948, the ANA board of directors established the policy that there be no discrimination as to race, creed, or color in accommodations obtained for ANA meetings. Because we have this position, we do not schedule conventions or conferences in cities where all of our membership cannot enjoy the same rights to accommodations in hotels, restaurants, and transportation facilities. From the practical and economic point of view, the city which has segregated facilities, thereby denying like accommodations to all, loses financially since the purchasing power of 10,000 people is considerable.

In addition to the biennial convention, the association conducts many smaller conferences, institutes, and workshops in various parts of the country. These meetings may focus on a specific clinical area such as psychiatric nursing practice or the nursing care of patients with cardiac disease or on specific concerns of the nurse, such as economic and general welfare and legislation.

An area that has segregated facilities presents a hardship for all nurses, not just to those who belong to a minority group. Some nurse members are faced with the prospect of always going outside their own region to attend meetings and to participate in the affairs of the association. However, in spite of this problem there has never been any effort by a group within ANA to bring about a change in the association's position.

The only criterion for employment of American Nurses' Association staff is the qualifications for the position. Staff implements the programs of the association and provides consultant services, either through correspondence or in person, to the constituent State associations. In some instances, highly qualified staff members, with special knowledge and skills, are not available to serve the total membership in person because of restrictions in the use of public accommodations. The American Nurses' Association cannot send some of its specialized staff members to some communities because segregation practices exist.

Our constituent State nurses' associations have attempted to achieve progress and secure facilities where all can be accommodated, through seeking the co-operation of owners and managers of community facilities. This is not always possible, even granting the good intent of management, because of restrictive State laws. In other areas, no amount of effort will secure facilities in which the State associations can meet since there are no public buildings available. Some of our State associations have arranged meetings in Federal buildings such as an armory where everyone can sit down together. In some instances, only limited effort has been made in recent years to hold integrated meetings because of the fear of local censure.

We wish to express our concern over the fact that the proposal to end discrimination in public accommodations may not apply to the hospital industry.

Yet hospitals are built and operated for the public good. Admission of patients should be based on need. Employment of staff within the hospital should be determined solely on the basis of qualifications. Maintenance of separate facilities within a community seriously dilutes the number of qualified staff available for employment. In nursing, we are especially concerned about the shortage of professional nurses, who are responsible for meeting nursing care needs and for the direction and supervision of less well-prepared personnel in nursing service. At this time, the ratio of professional nurses to population is lowest in those regions which have the largest number of segregated hospitals.¹

A study of several hospitals that undertook integration of staff shows that two basic factors—the nature of the hospital as an institution and the nurse's role in the hospital—work to the advantage of integration. Characteristics of nursing and of the hospital as an institution that facilitate integration are—

Emphasis on other than racial criteria in definitions of the "preferred type" of nurse.

The humanitarian ethos of nursing and its expression in nursing organizations.

The occupational status system of the hospital which overrides other types of status divisions.

The emphasis on professional role relations and recognition of authority.

The nature of the nurse-patient relationship.

A reprint from the American Journal of Nursing describing this study is attached to this statement for further information.

The ANA code of ethics, adopted in 1950, states that professional status in nursing is maintained and enriched by the willingness of the individual practitioner to accept and fulfill obligations to society, coworkers, and the profession of nursing. The Code for Professional Nurses contains additional guides to the individual nurse in fulfilling her obligations. These are—

"The nurse provides services based on human need, with respect for human dignity, unrestricted by considerations of nationality, race, creed, color, or status"; and

"The nurse as a citizen understands and upholds the laws and performs the duties of citizenship; as a professional person the nurse has particular responsibility to work with other citizens and health professions in promoting efforts to meet health needs of the public."

Integration within the association has been accomplished through the voluntary effort of the nursing profession. We believe that all Americans should enjoy the same political and civil rights and recognize that, in some instances, these can be secured only through legislative action. The association has chosen to support civil rights legislation that would have a favorable effect on nurses, nursing and health and the provision of health services. We urge this committee to take favorable action on this proposed civil rights legislation.

STATEMENT OF ANTIDEFAMATION LEAGUE OF B'NAI B'RITH BY DORE SCHARY, NATIONAL CHAIRMAN

The Antidefamation League of B'nai B'rith appreciates this opportunity to add its voice to those of the many religious, civic, labor, and educational organizations which have been petitioning Congress to enact legislation to abolish segregation in places of public accommodation.

¹ Facts About Nursing," American Nurses' Association, 1963 edition, "Toward Quality in Nursing," Surgeon General's (U.S. Public Health Service) Consultant Group on Nursing.

The Antidefamation League is the educational arm of B'nai B'rith, which was founded in 1843 and is America's largest Jewish service organization. It seeks to develop good will and understanding among Americans of the various religious, ethnic, and racial groups, and to prevent discrimination against any of them. Its program is rooted in the religious teachings of Judaism: man is a creature of God and all men are equal before Him; the dignity of the individual is God-given and must not be violated—teachings which are shared by all the great religions in America and which undergird the constitutional guarantees of freedom and equality.

It is not our purpose in this brief statement to go into a detailed analysis of the provisions of S. 1732. We propose only to stress the urgent need for Congress not only to act, but to act decisively and comprehensively to end the humiliation of public discrimination.

In the 2 months since the May 20th Birmingham riots, the Justice Department has counted 559 civil rights demonstrations—in 169 cities—in 32 States. Two hundred and thirty-nine of these have involved discrimination in places of public accommodation. It is, we believe, a matter for national self-congratulation that despite the depth of passion and the combustibility of these demonstrations, there has been so little violence. But the danger is real. We do not have to go as far as Vice President Johnson, who said: "A time bomb ticks in America's streets," to conclude that the time for Congress to act is running short.

"Congress," said President Kennedy, "must make the commitment it has not fully made in this century to civil rights." And the real choice before Congress is whether it will merely stand by and let the struggle for constitutional rights be fought out between the "Bull" Connors and the victims of discrimination—or whether it will legislate what justice and the constitutional ideal require.

Millions of Americans this vacation season are traveling the country in their automobiles. When they become hungry, they find refreshment; when they become tired, they find shelter on almost every hand. But, for one group of Americans the road is long and the destination uncertain. The restaurants and motels are there, of course—but Negroes are not able to use them.

On the southern leg of U.S. 1, Under Secretary of Commerce Franklin D. Roosevelt, Jr., has testified, Negroes have to drive an average of 141 miles before they can find a motel that will take them in. There is, unfortunately, no hyperbole in Roy Wilkins' summation: "From the time they leave home in the morning . . . until they return home at night, humiliation stalks them."

Members of Congress are debating whether the remedy for this kind of discrimination should follow the rather legalistic but well-traveled route of the constitutional clause which gives Congress the power to regulate commerce, or whether Congress should take the higher road of the 14th amendment, which empowers Congress to insure that no State denies the equal protection of the laws to any of its citizens. The debate is real. The choice of route carries not only overtones of earlier political controversies, but implications for the future. But, however, real and substantive the issue of the route, it is overshadowed by the ills that cry out for remedy. The affronts and humiliations which S. 1732 undertakes to end are intensely human and personal. It would be tragic if even a single vote in Congress were lost because of political arguments over the choice of constitutional route.

We believe that the administration's proposal suggests, in essence, the right course—reliance both on the Commerce Clause and the 14th amendment. We should not sacrifice the constitutional certainty that comes from invoking the Commerce Clause which has been used time and again by the Congress—wisely and fruitfully—to strike at evils which happen to be involved in commerce, evils like prostitution, narcotics, or mislabeled drugs. At the same time it is true that racial segregation in public accommodations is part of the stubborn residue of slavery "legalized" by hundreds of Jim Crow State statutes and city ordinances that commanded—and even today still command—this unconstitutional discrimination. The 14th amendment provides ample warrant for a congressional undertaking to liquidate the evil fruit of State-enforced discrimination. It is surely within the competence of congressional draftsmen to write a statement of congressional policy that will be a happy marriage of the lofty objective of the 14th amendment and the prudent solidity of the commerce clause.

Since a crucial part of the motel and restaurant industry is "small business," it would defeat the purpose of the statute to make an exemption based on an annual gross income of \$100,000 or even \$50,000. The only valid basis for exclusion is the fact that an establishment is not open to the public; it is private.

The testimony thus far adduced by the committee has served only to strengthen the arguments in favor of passage. The first objectors introduced the extraneous allegation that the Negro demonstrations were Communist-inspired and Communist-led. Such a claim betrays, at once, an ignorance of the nature of communism and the nature of Americanism; it disparages Americanism and gives undeserved credit to communism. We should think that there is nothing more un-American than to take injustice lying down, that there is nothing more traditionally American than to fight injustice. Secretary of State Dean Rusk put it with unanswerable succinctness when he said, "If I were denied what our Negro citizens are denied, I would demonstrate."

The second objection argues that we should not place additional burdens on property rights, that the businessman should be free to select his customers, hopefully without prejudice, but with prejudice if he so elects. It is sometimes difficult to balance opposing rights, but not, we believe, in this case. The right of 18 million Negroes to be free from the humiliation that stalks them day and night is entitled to greater consideration than the right of a motel owner to turn away a customer because of his skin color. For centuries the inns which were the ancestors of motels and drive-in restaurants have been subject to strict common law controls against discrimination. The property rights in places of public accommodations have always been circumscribed, have always been subject to the requirement that the public be served.

The third objection has gone on a higher and more persuasive level. Southerners of good will tell us that progress has been made through negotiation and accommodation on the local level; it may be jeopardized by the intrusion of the heavy hand of the Federal Government.

To an agency like ours, built on the principle of voluntarism and believing strongly in the efficacy of education and mediation, this argument is appealing. But if we look not merely at the general rule but the specific facts of the case we come to a different conclusion. We are convinced that in the context of the facts and the times in which the present crisis develops, legislation is needed. In community after community we hear of restaurant and motel owners who are ready to desegregate, but are held back by the competitive pressure of a handful of owners who keep the segregation issue alive by their recalcitrance. In one community nine restaurant owners may be prepared to desegregate but one will not, and the whole community is immobilized. If unanimity were not required for success, the mediation approach would carry greater weight. But, since one or two important owners can in effect veto the forward step that a majority in the community are prepared to make, legislation is required to correct the inordinate power of that veto.

The question before Congress is not whether equality of opportunity is to be achieved; the question is how it will come about. The real choice is: an orderly statutory remedy for the legitimate grievances of a disadvantaged group of Americans, or new crises, new disorders and racial strife which will leave scars of bitterness to mar race relations for years to come. Legislative accomplishment will speed racial peace; legislative inaction will endanger it. Even more important, the passage of this legislation will promote justice, it will preserve faith in due process of law and the American way.

One hundred years after the Emancipation Proclamation the Supreme Court found it necessary to remind America that:

"The (civ.) rights here asserted are * * * present rights; they are not merely hopes to some future enjoyment. * * * The basic guarantees of our Constitution are warrants for the here and now." *Watson v. City of Memphis*, May 27, 1963.

The melancholy fact of the here and now, however, is that constitutional rights of Negroes are still largely in the future. They are still widely flouted—by Governors as well as by local voting registrars, by school boards as well as by restaurant owners, by policemen as well as by night-riding hoodlums.

We do not blink the fact that in the last decade America has made dramatic civil rights gains. This progress has been achieved through court decisions, the actions of the Executive, the educational campaigns of voluntary organizations and increasingly through direct action by Negro citizens. It should be a matter of deep concern, however, that Congress has yet to make its proportionate contribution to this progress, and that many Negroes have come to believe that it is virtually futile to come to Congress because Congress doesn't care enough about the civil rights issue. These Negroes have turned to more hazardous but more rewarding ventures—the freedom rides, the sit-ins, the demonstrations—in an effort to wrest by direct action the rights and dignities denied them by the State. This year we hope Congress will make its overdue contribution.

STATEMENT OF ALFRED AVINS, ON BEHALF OF LIBERTY LOBBY

FREEDOM OF CHOICE IN PERSONAL SERVICE OCCUPATIONS: 13TH AMENDMENT LIMITATIONS ON ANTIDISCRIMINATION LEGISLATION

1. Antidiscrimination legislation in personal services

A majority of the States now have laws forbidding discrimination based on race, creed, color, or national origin in "places of public accommodation."¹ While statutory definitions vary widely, most States include in the definition of "places of public accommodation" one or more forms of personal service occupation. Probably the personal service most often singled out is barbering,² although a number of statutes have been broadened to include almost every service imaginable.³

Cases in the courts involving antidiscrimination legislation as applied to personal service occupations have been few and far between. Several cases have exempted such occupations from the scope of the statute by strict construction,⁴ but others have included them within the ambit of the law.⁵ However, as already noted, the lengthening statutory lists of occupations or the sweeping statutory terminology no doubt includes such occupations in an increasing number of States.

*State Commission Against Discrimination v. Mustachio*⁶ is a typical case involving a barber shop. There the commission found that respondent had attempted to discourage Negro patronage of his barber shop by posting a sign saying: "Kinky Haircut, \$5," and by attempting to charge a Negro that price, which the commission found was a "prohibitive price far in excess of respondent's usual charge for cutting a white person's hair." It ordered, *inter alia*, that the respondent barber write to the complainant "offering to cut her son's hair at the regular rate charged by respondent for cutting a white person's hair." It also ordered him to "furnish to Negro customers services of the same quality as those furnished to white customers and at the same rates."

The intent of this order is clear. It requires the respondent, a barber, to work for a person and a group of persons who he clearly does not want to work for, upon pain of imprisonment if he refuses to do so.⁷ He is thus required to serve, involuntarily, the complainant and other Negro applicants.

A statute which requires one person to render involuntary service to another immediately raises the question of its constitutionality under the 13th amendment. Surprisingly, with the exception of one brief discussion in a dissenting

¹ Alaska Stat., § 11.60.230 (1962); California Civil Code, § 51; Colorado Rev. Stat., § 25-1-1 (1953); Connecticut Gen. Stat. 53:35 (1958); Idaho Code, § 18-7301 (1961); Illinois Revised Stat., ch. 38, § 125 (1961); Burns Ind. Stat. Ann., § 10-901 (1956); Iowa Code Ann., ch. 753 § 1 (1946); Kansas Gen. Stat. Ann., § 21-2424 (1961); Maine Rev. Stat., ch. 137, § 50 (1954); Massachusetts Ann. Laws, ch. 272, § 92A (1956); Michigan Stat. Ann., § 28.348 (1962); Minnesota Stat. Ann., § 327.09 (1947); Montana Rev. Code, § 64-211 (1947); Nebraska Rev. Stat., § 20-101 (1962); New Hampshire Rev. Stat. Ann., § 354.1 (1961); New Jersey Stat. Ann., 10:1-5, 18:25-5 (1960); New Mexico Stat. Ann., § 49-8-1 (1962); New York Civil Rights law, § 40, Executive law, § 296; North Dakota Cent. Code Ann., § 12-22-30 (1961); Bald. Ohio Code, § 2901.35 (1961); Oregon Rev. Stat., § 30.670 (1961); 18 Pur. Pa. Stat. Ann., § 4854, 43 Pur. Pa. Stat. Ann., § 651 (1961); Rhode Island General Laws, § 11-24-1 (1955); 13 Vermont Stat. Ann., § 1451 (1953); Washington Rev. Code, § 9.01.010 (1961); Wisconsin Stat., § 942.04 (1961); Wyoming Stat., art. 6, § 83.1 (1961). In addition, Nevada Rev. Stat., § 233.010 (1961), and West Virginia Code, § 285 (1961), have hortatory, but noncoercive, provisions.

² Alaska, California, Colorado, Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, and Wisconsin mention barbershops specifically.

³ California, Connecticut, Idaho, Massachusetts, New York, Oregon, Vermont, and Washington have very broad statutes which include almost every conceivable personal service occupation. See, for example, *Burks v. Poppy Construction Co.*, 57 Cal. 2d 463, 20 Cal. Rept. 609, 320 P. 2d 313 (1962). In addition, a New York State Board of Regents rule now requires the various medical and other professions licensed by it not to discriminate in serving patients on pain of loss of license to practice. New York Times, Oct. 27, 1962, p. 27, col. 1; Oct. 29, 1962, p. 29, col. 2.

⁴ *Goleman v. Middlestaff*, 147 Cal. App. 2d Supp. 838, 805 P. 2d 1020 (1957) (dentist); *Faulkner v. Solari*, 79 Conn. 541, 65 Atl. 947 (1907) (barber); *Burks v. Bosso*, 180 N.Y. 341, 73 N.E. 68 (1903) (bootblack); *Rice v. Rinaldo*, 119 N.E. 2d 637 (Ohio App. 1951).

⁵ *Darius v. Apostolos*, 68 Colo. 823, 190 Pac. 510 (1919) (bootblack); *Messenger v. State*, 25 Nebr. 674, 41 N.W. 638 (1888) (barber); *Browning v. Blenderella Systems*, 54 Wash. 2d 440, 341 P. 2d 859 (1959) (beauty salon); *Washington State Board Against Discrimination v. Interlake Realty, Inc.*, 7 R.R.L.R. 555 (1962) (real estate broker).

⁶ 8 R.R.L.R. 355 (1961), enforced on May 16, 1961, by Meyer, J., in Supreme Court, Nassau County, N.Y., index No. 4552-1961, Cal. No. 19, Apr. 28, 1961.

⁷ Note, *The Right to Equal Treatment: Administrative Enforcement of Antidiscrimination Legislation*, 74 Harv. L. Rev. 528, 555 (1961). See *People ex rel. N.Y. State Commission Against Discrimination v. Achley-Maynes Co.*, 4 R.R.L.R. 353 (N.Y. Sup. Ct., May 9, 1959), where refusal to obey a court order enforcing the Commission's order was punished by fine and imprisonment.

opinion,⁹ no case has ever discussed this question. Although there are a number of cases which have held antidiscrimination legislation constitutional under the 14th Amendment,¹⁰ no decision has dealt with this matter under the far more specific provisions of the 13th amendment.

Yet the 13th amendment would seem to apply far more directly to antidiscrimination legislation in the rendition of personal services. Whatever the vague contours of the phrase: "nor shall any State deprive any person of . . . liberty or property, without due process of law" as found in the 14th amendment may mean, the 13th amendment is quite specific: "Neither slavery nor involuntary servitude . . . shall exist within the United States . . ." (Emphasis supplied.) This article will explore the meaning of the term "involuntary servitude," and its application to personal service occupations.

2. Pre-Civil War provisions in the Northwest

The words "involuntary servitude" first appear in the Northwest Ordinance of 1787. The relevant provision is as follows:

"There shall be neither slavery nor involuntary servitude in the said Territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted . . ."¹¹

As each of the areas of the territory emerged into a State, it copied this provision into its State constitution in very similar language. Thus, the provision is found in the pre-Civil War constitutions of Ohio,¹² Indiana,¹³ Illinois,¹⁴ and Michigan.¹⁵

The Ohio Constitution of 1802 contained an additional provision immediately beneath the wording from the Northwest Ordinance. It stated:

"Nor shall any person, arrived at the age of 21 years, or female person arrived at the age of 18 years, be held to serve any person as a servant, under the pretence of indenture or otherwise, unless such person shall enter into such indenture while in a state of perfect freedom, and on a condition of a bona fide consideration received or to be received for their service, except as before excepted. Nor shall any indenture of any Negro or mulatto hereafter made and executed out of the State, or if made in the State where the term of service exceeds 1 year, be of the least validity, except those given in the case of apprenticeships."¹⁶

This provision, copied into the Illinois Constitution in almost identical language,¹⁷ is of considerable significance. Not only does this provision contain the typical requirement that contracts of service be by indenture to bind the servant,¹⁸ but in addition it requires that contracts of service be voluntarily entered into and for a valuable consideration. As further protection for Negroes, except in the case of minors whose apprenticeship was automatically longer than 1 year, the maximum period permitted for contracts of personal service was a year. Thus, the provision sought to assure, by a variety of safeguards, that labor contracts were made in a perfectly voluntary fashion and without coercion or imposition of any kind.

Two decisions interpreting the foregoing provisions are of particular note. In *Phoebe v. Jay*,¹⁹ the Illinois Supreme Court had before it a statute which permitted the owner of a slave over 15 years old to bring the slave into Illinois, upon condition that he and the slave should come before the court clerk and agree upon the term of years which the Negro or mulatto would work for him. However, the statute also provided that if the Negro or mulatto refused to agree to work for his owner, the latter may take him back into slave territory. The court held that this statute violated the Northwest Ordinance. It said:

"Nothing can be conceived further from the truth, than the idea that there could be a voluntary contract between the Negro and his master. The law

⁹ *Browning v. Slenderella Systems*, 54 Wash. 2d 440, 341 P. 2d 859, 869 (1959).

¹⁰ Annot., 49 A.L.R. 505 (1927).

¹¹ Northwest Ordinance of 1787, art. 6.

¹² Ohio Constitution, art. VIII, § 2 (1802); Ohio Constitution, § 6 (1851).

¹³ Indiana Constitution, art. XI, § 7 (1816); Indiana Constitution, art. I, § 27 (1857).

¹⁴ Illinois Constitution, art. VI, § 1 (1818); Illinois Constitution, art. XIII, § 18 (1848).

¹⁵ Michigan Constitution, art. XI, § 1 (1835); Michigan Constitution, art. XVIII, § 11 (1850); Iowa Constitution, art. I, § 23 (1846, 1857); Minnesota Constitution, art. I, § 2 (1857), and Wisconsin Constitution, art. I, § 2 (1848), contain similar provisions.

¹⁶ Ohio Constitution, art. VIII, § 2 (1802).

¹⁷ Illinois Constitution, art. VI, § 1 (1818).

¹⁸ *Overseers of Poor of Hopewell Township v. Overseers of Poor of Amwell Township*, 6 N.J.L. 169, 175 (1822); *Commonwealth ex rel. Ruggles v. Wilbank*, 10 Serg. & R. 415, 416-7 (Pennsylvania, 1823). This provision was designed to add solemnity to the obligation of service and thereby to protect the servant against hasty agreements to serve.

¹⁹ 1 Ill. 268 (1828).

authorizes his master to bring his slave here, and take him before the clerk, and if the Negro will not agree to the terms proposed by the master, he is authorized to remove him to his original place of servitude. I conceive that it would be an insult to commonsense to contend that the Negro, under the circumstances in which he was placed, had any free agency. The only choice given him was a choice of evils. On either hand, servitude was to be his lot. The terms proposed were: slavery for a period of years, generally extending beyond the probable duration of his life, or a return to perpetual slavery in the place from whence he was brought. The indenturing was in effect an involuntary servitude for a period of years, and was void, being in violation of the ordinance * * *."

*In re Clark*²⁰ is even stronger. In that case, it was undisputed that the petitioner had freely and voluntarily entered into a contract to serve her master as a housemaid. Later, she changed her mind, and brought an action for habeas corpus to free herself from her master's service. Notwithstanding the clear fact that she had initially entered into the contract voluntarily, the Indiana Supreme Court held that: "The fact then is, that the appellant is in a state of involuntary servitude; and we are bound by the Constitution, the supreme law of the land, to discharge her therefrom."²¹

First, it might be noted that the court disregarded the fact that the petitioner was colored, and decided the case on general principles. It went on to point out that compulsion by law for the performance of personal service was degrading. It stated:

"Many covenants, the breaches of which are only remunerated in damages, might be specifically performed; either by a third person at a distance from the adversary, or in a short space of time. But a covenant for service, if performed at all, must be performed under the eye of the master; and might, as in the case before us, require a number of years. Such a performance, if enforced by law, would produce a state of servitude as degrading and demoralizing in its consequences, as a state of absolute slavery; and if enforced under a government like ours, which acknowledges a personal equality, would be productive of a state of feeling more discordant and irritating than slavery itself."²²

Moreover, the court pointed out that whenever a court compelled a person to perform service, "the losing party feels mortified and degraded in being compelled to perform for the other what he had previously refused, and the more especially if that performance will place him frequently in the presence or under the direction of his adversary."²³ Thus, "if a man, contracting to labor for another a day, a month, a year, or a series of years, were * * * compelled to perform the labor, it would * * * produce in their performance a state of domination in the one party, and abject humiliation in the other * * *. A state of servitude thus produced, either by direct or permissive coercion, would not be considered voluntary either in fact or in law."²⁴

From the above two cases, it can be seen that the words, "Involuntary servitude," as found in the Northwest Ordinance, and incorporated into the State constitutions of Illinois, Indiana, Michigan, and Ohio, have their ordinary and natural meaning. They mean service or labor which is, at all times, performed voluntarily, and without any legal or other compulsion. The agreement to serve must be entered into without coercion, and must be carried out without coercion. The provision, in short, banned any sanctions which compelled one person to work for another, for however short a period of time.

3. The passage of the 13th amendment

The earliest bill to abolish "involuntary servitude," passed by Congress during the Civil War period, was an act relating to the District of Columbia,²⁵ which abolished slavery in the District.²⁶ This bill provided that "neither slavery nor involuntary servitude, except for crime, whereof the party shall have been duly convicted, shall hereafter exist in the said District."²⁷ These words were substituted for "subjection to service of labor proceeding from such cause [i.e., by reason of African descent] shall not hereafter exist in said District."²⁸

²⁰ *Id.* at 270.

²¹ 1 Blackf. 122 (Ind. 1831).

²² *Id.* at 126.

²³ *Id.* at 124-125.

²⁴ *Id.* at 124.

²⁵ *Id.* at 125.

²⁶ Congressional Globe, 37th Cong., 2d sess., 89 (1862).

²⁷ Act of Apr. 16, 1862, 12 Stat. 378.

²⁸ Congressional Globe, 37th Cong., 2d sess., 1191 (1862).

²⁹ *Ibid.*

Senator Ira Harris, of New York, offered the criticism that, the bill provided that "neither slavery nor involuntary servitude" shall exist here, as though they were two distinct things. I suppose, but I am not sure about it, that up to this time the term 'slavery' has not been introduced into the legislation of the country." Senator Lot M. Morrill, the Maine Republican who drafted the substitution for the Committee on the District of Columbia, replied that "This is the exact language of the ordinance of 1787." Senator Harris renewed his objection. He argued:

"I have a further suggestion to make, and that is that the term 'involuntary servitude' will embrace the condition of apprentices, unless the phrase 'by reason of African descent' in the beginning of the section shall control, as perhaps it will."²⁰

Senator Jacob Collamer, of Vermont, replied to this: "The phrase 'slavery or involuntary servitude' has received a construction under the ordinance of 1787."²¹ Aside from another comment that this bill enacted the Northwest Ordinance²² in the Senate, and a futile plea to extend the bill to cover "white persons who are enslaved" in the territories,²³ nothing more was said which which was relevant.

Section 9 of the "confiscation bill,"²⁴ as enacted into law, declared that slaves of rebels "shall be forever free of their servitude and not again held as slaves."²⁵ Here again, the Northwest Ordinance was considered a model. Congressman Samuel S. Blair, of Pennsylvania, stated: "The ordinance of 1787 was, indeed, great, for it preserved freedom; this is greater, for it restores freedom. That kept slavery out; this put it out."²⁶

The 13th amendment was introduced as a joint resolution (S. J. Res. 16) in the Senate on January 13, 1864, by Senator John B. Henderson of Missouri,²⁷ and was reported back from the Committee on the Judiciary, changed in wording to its present form, by Senator Lyman Trumbull, of Illinois.²⁸ The amendment of the Judiciary Committee was agreed to by the Senate.²⁹

Senator Charles Sumner of Massachusetts, the equalitarian radical, criticized the committee for adhering to "the Jeffersonian ordinance." He proposed to amend their draft by striking out the words of the ordinance and substituting: "All persons are equal before the law, so that no person can hold another as a slave."³⁰ He declared:

"I do not know that I shall have the concurrence of other Senators in the criticism which I make upon it; but I understand that it starts with the idea of reproducing the Jeffersonian ordinance. I doubt the expediency of reproducing that ordinance. It performed an excellent work in its day; but there are words in it which are entirely inapplicable to our time."³¹

Sumner's main objection was to the words "nor involuntary servitude otherwise than in the punishment of crimes whereof the party shall have been duly convicted." He commented that at one time it was the custom to doom criminals as slaves for life as a punishment, but that "slavery in our day is something distinct, perfectly well known, requiring no words of distinction outside of itself." He contended that the discussion of involuntary servitude was surplusage and would "introduce a doubt."

Sumner also had some grammatical quibbles which he argued were not to be found in the Northwest Ordinance. These did not appeal to the other Members.³² Trumbull showed his irritation at Sumner's rejection of the committee language, saying:

"I do not know that I should have adopted these precise words, but a majority of the committee thought they were the best words; they accomplish the object;

²⁰ Ibid.

²¹ Ibid.

²² Senator Samuel C. Pomeroy, of Kansas, said: "The first section of the bill extends over this District the ordinance of 1787; and I think there is no doubt as to the effect of that." He further noted: "I think passing the ordinance of 1787 as provided in the first section of this bill * * *." Id. at 1285.

²³ Id. at 1643.

²⁴ Id. at 3275.

²⁵ 12 Stat. 589 (1862).

²⁶ Congressional Globe, 37th Cong., 2d sess., 2208 (1862).

²⁷ Congressional Globe, 38th Cong., 1st sess., 145 (1864).

²⁸ Id. at 553.

²⁹ Id. at 1447.

³⁰ Id. at 1483, 1487.

³¹ Id. at 1483.

³² At one point Senator James R. Doolittle, of Wisconsin, contradicted him and declared: "They are both in the Jeffersonian ordinance." Ibid.

and I cannot see why the Senator from Massachusetts should be so pertinacious about particular words. The words that we have adopted will accomplish the object. If every Member of the Senate is to select the precise words in which a law shall be clothed, and will be satisfied with none other, we shall have very little legislation."⁴³

Trumbull sneered at Sumner's attempt to copy language from the French Revolution, and declined to alter the committee's version which it had agreed on. Senator Jacob M. Howard, of Michigan, joined the barrage against Sumner by declaring that the language was legally meaningless, and inapplicable as well. After noting that the French Constitution was meant only to equalize political rights, he declared:

"Now, sir, I wish as much as the Senator from Massachusetts in making this amendment to use significant language, language that cannot be mistaken or misunderstood; but I prefer to dismiss all references to French constitutions or French codes, and go back to the good old Anglo-Saxon language employed by our fathers in the ordinance of 1787, an expression which has been adjudicated upon repeatedly, which is perfectly well understood both by the public and by judicial tribunals, a phrase, I may say further, which is peculiarly near and dear to the people of the Northwestern Territory, from whose soil slavery was excluded by it. I think it is well understood, well comprehended by the people of the United States, and that no court of justice, no magistrate, no person, old or young can misapprehend the meaning and effect of that clear, brief, and comprehensive clause. I hope we shall stand by the report of the committee."⁴⁴

Upon this, Sumner withdrew his amendment, and the joint resolution passed the Senate on April 8, 1864.⁴⁵

The joint resolution had a more difficult time in the House. There it was introduced by Congressman James F. Wilson, of Iowa, chairman of the House Judiciary Committee, on December 14, 1863.⁴⁶ When it came to a final vote on June 16, 1864, it received only 93 yeas to 65 nays, and failed for want of a two-thirds majority.⁴⁷ However, after the November elections in which Lincoln was reelected and the Republicans were victorious, the 2d session of the 38th Congress met in the winter of that year. At that time, Congressman James M. Ashley, of Ohio, who had originally voted in the negative, moved to reconsider the vote.⁴⁸ On January 31, 1865, almost at the close of the war, the measure passed the House by 119 yeas to 56 nays.⁴⁹

Debates in the House were largely confined to generalities on the evils of slavery by those who proposed to abolish it, and States rights by those who opposed the amendment. There were only passing references to the word "servitude."⁵⁰ One opponent of the amendment declared that there could be property in the service of others, if State law so provided, a position rejected by a proponent.⁵¹ Another declared that "in any form of civilization resembling our own, servitude will always exist." He stated that servitude merely differed in degree, and that the poor English factory workers were in "bondage" and had "little to boast of [their] freedom." Stating that the "freedom of a British workman consists in a limited liberty to change his employer," he went on to proclaim that such a condition was little better than slavery.⁵² However, no one seems to have paid much attention to this line of argument on the other side.

It is clear from the foregoing materials that Congress intended to enact the provisions of the Northwest Ordinance, familiar to so many Senators as part of the constitutions of their own States, into the 13th amendment. It is equally clear that the judicial interpretations of that ordinance, discussed above, were intended to be carried along with the language of the ordinance itself into the U.S. Constitution. Senator Sumner proposed to declare all men equal, but Congress rejected this. Instead of enacting equality, it enacted liberty.

⁴³ Ibid.

⁴⁴ Id. at 1489.

⁴⁵ Id. at 1490.

⁴⁶ Id. at 21.

⁴⁷ Id. at 2995.

⁴⁸ Congressional Globe, 38th Cong., 2d sess., 53 (1864).

⁴⁹ Id. at 531.

⁵⁰ For example, Congressman Thomas T. Davis, of New York, declared that "This war sprang from the aristocracy of the South in an effort to maintain a system of servitude on which alone that aristocracy could be perpetuated." Id. at 154. Congressman George H. Yeaman, of Kentucky, stated that "Slavery is the idea of the right of one to claim, and the duty of another to render, involuntary service." Id. at 171. See also id. at 190, 200, 214, 215. (Exchanges between Congressman Chilton A. White, of Ohio, and Congressman John F. Farnsworth, of Illinois.)

⁵¹ Id. at 177-178 (Congressman Elijah Ward, of New York).

4. The right to refrain from work

The "involuntary servitude" forbidden by the 13th amendment applies only to the rendition of personal labor.⁵² The performance of impersonal acts, such as giving instructions to a subordinate agent to take certain action, does not fall within the ambit of the amendment.⁵³ While labor enforced as a punishment "is in the strongest sense of the words, 'involuntary servitude * * *,'"⁵⁴ the term includes enforced labor which is not intended for punitive purposes,⁵⁵ and which may even be intended as a benefit.⁵⁶

Nor does it matter whether a person is compensated for his labor. One case held:

"Whether appellant was to be paid much, or little or nothing, is not the question. It is not uncompensated service, but involuntary servitude which is prohibited by the 13th amendment. Compensation for service may cause consent, but unless it does it is no justification for forced labor."⁵⁷

Thus, the term "involuntary servitude" has been defined as "the condition of one who is compelled by force, coercion or imprisonment and against his will to labor for another whether he is paid or not."⁵⁸ The constitutional provision accordingly gives every person the right to refrain from performing services for every other person.

To the right to refrain from work there is one well-recognized exception. Government may command the services of everyone in the performance of its essential tasks. In *Buller v. Perry*,⁵⁹ the U.S. Supreme Court said the following about the 13th amendment:

"It introduced no novel doctrine with respect of services always treated as exceptional, and certainly was not intended to interdict enforcement of those duties which individuals owe to the State, such as service in the Army, militia, on the jury, etc. The great purpose in view was liberty under the protection of effective government, not the destruction of the latter by depriving it of essential services."⁶⁰

The most common example of involuntary service for the Government is military service⁶¹ in all of its aspects.⁶² In lieu of actual military service, Congress has required that conscientious objectors do work of national importance, and the courts have found this to be constitutionally unobjectionable.⁶³ Often, such work of national importance includes activities not directly beneficial to any particular individual, and under the direct jurisdiction of the Federal Government, such as soil conservation, forestry, tree planting, construction of fire towers and roads, and similar public activities.⁶⁴ However, such work may fall under the

⁵² *Slaughter House cases*, 83 U.S. (16 Wall.) 36, 69 (1873).

⁵³ In *Marcus Brown Holding Co. v. Feldman*, 256 U.S. 170, 199 (1921), Mr. Justice Holmes said:

"It is objected finally that c. 951, above stated, insofar as it required active services to be rendered to the tenants, is void on the rather singular ground that it infringes the 13th amendment. It is true that the traditions of our law are opposed to compelling a man to perform strictly personal services against his will even when he has contracted to render them. But the services in question although involving some activities are so far from personal that they constitute the universal and necessary incidents of modern apartment houses. They are analogous to the services that in the old law might issue out of or be attached to land. We perceive no additional difficulties in this statute, if applicable as assumed."

⁵⁴ *Ex parte Wilson*, 114 U.S. 417, 429 (1885); *Accord: Flannagan v. Jopson*, 177 Iowa 393, 158 N.W. 641 (1916); *Smolysk v. Gaston*, 142 F. 2d 981, 24 N.W. 2d 862 (1946). See also *Thompson v. Bunton*, 117 Mo. 83, 22 S.W. 863 (1893), where a person's services were sold to the highest bidder.

⁵⁵ *United States v. McClellan*, 127 Fed. 971 (S.D. Ga. 1904); *In re Chung Fat*, 96 Fed. 202 (D. Wash. 1899).

⁵⁶ *In re Turner*, 24 Fed. Cas. 337 (No. 14,247) (C.C. Md. 1867).

⁵⁷ *Heflin v. Sanford*, 142 F. 2d 798, 799 (5th Cir. 1944).

⁵⁸ *Crews v. Lundquist*, 361 Ill. 193, 197 N.E. 768, 772 (1935).

⁵⁹ 240 U.S. 328 (1916).

⁶⁰ *Id.* at 338.

⁶¹ *Selective Draft Law cases*, 245 U.S. 866 (1918); *United States v. Sugar*, 248 Fed. 423 (E.D. Mich. 1917).

⁶² *Bertelsen v. Cooney*, 213 F. 2d 275 (5th Cir. 1954).

⁶³ *Reese v. United States*, 225 F. 2d 768 (9th Cir. 1955); *Atherton v. United States*, 176 F. 2d 835 (9th Cir. 1949); *Hopper v. United States*, 142 F. 2d 181 (9th Cir. 1943); *United States v. Brooks*, 54 F. Supp. 005 (S.D.N.Y. 1944), *aff'd* 147 F. 2d 184 (2d Cir. 1945), *cert. den.* 324 U.S. 878; *United States ex rel. Zucker v. Osborne*, 64 F. Supp. 984 (W.D.N.Y. 1944), *aff'd* 147 F. Supp. 135 (2d Cir. 1945), *cert. den.* 325 U.S. 881.

⁶⁴ *Wolfe v. United States*, 149 F. 2d 391 (8th Cir. 1945); *United States v. Smith*, 124 F. Supp. 406 (E.D. Ill. 1954).

jurisdiction of a State or local government agency, on the theory that they also perform activities of national concern.⁶⁶

One activity, which may be questioned, is work in hospitals, which the courts have upheld for conscientious objectors in lieu of military service.⁶⁷ This has even been extended as far as work in private, nonsectarian university hospitals ministering to the public.⁶⁸ Here, some of the work might be said to confer some direct benefits on individuals, as distinguished from the community as a whole. If a person were required to work for the benefit of particular individuals, as distinguished from the community, then such work would constitute involuntary servitude.

However, the cases carefully limit such work to service for community benefit only. As one case held:

"It is of no moment under whose direction the work is done. If it aids in our preparedness, civilian service is not open to challenge as involuntary servitude. We need only state the analogy sought to be drawn between the work to which these defendants were assigned and assignment to Macy's basement to demonstrate that the analogy in fact does not exist."⁶⁹

Moreover, civilian service by conscientious objectors is designed to free others for military service, and to protect morale and preserve discipline in the Armed Forces.⁷⁰ If persons could escape any form of service by claiming conscientious objection, many would be found to do so who in fact had no such scruples. As a result, dissatisfaction among military personnel would become rife. However, even such service must be designed to benefit the community as a whole or it will constitute involuntary servitude.

Certain other civilian work for the Government has been upheld, even in time of peace. Labor on the public highways is not "involuntary servitude,"⁷¹ nor is jury duty, or the requirement that abutting owners remove snow and ice from sidewalks and gutters.⁷² Government may impose the duty of making reports to public authorities,⁷³ including tax reporting.⁷⁴ It may require individuals to collect taxes for it,⁷⁵ and to perform other occasional duties.⁷⁶

Only in the most exceptional circumstances may nongovernmental duties be imposed. One case held that involuntary servitude was not imposed by the requirement that a man work to support his family.⁷⁷ Noting that these were "services always treated as exceptional," the court held:

"The obligation of a husband and father to maintain his family, if in any way able to do so, is one of the primary responsibilities established by human nature and by civilized society."⁷⁸

⁶⁶ *Klubnikin v. United States*, 227 F. 2d 87 (9th Cir. 1955). See *United States v. Niles*, 122 F. Supp. 382, 384 (N.D. Calif. 1954), and 220 F. 2d 278 (9th Cir. 1955), cert. den. 349 U.S. 939 (1955), where the Court said:

"A health program conducted by any political subdivision of the Nation contributes to the general welfare of the Nation as a whole. The mere fact that such activities are carried out in the name of a political subdivision of the State or county rather than in the name of the United States itself, does not diminish the importance of the work, or cause it to lose its contributory relationship to the national health Certainly national defense and preparedness is accomplished by more than the strength of arms alone."

⁶⁷ *Ibid.* See also *United States v. Ledbetter*, 129 F. Supp. 444 (D. N.J. 1955); *United States v. Butler*, 127 F. Supp. 109 (S.D. Calif. 1954).

⁶⁸ *United States v. Hoepker*, 223 F. 2d 921, 922-923 (7th Cir. 1955), cert. den. 350 U.S. 841, where the Court said:

"Congress has declared that maintenance of the mental and physical health of our population is a subject of vital Federal concern in times of emergency The protection of the public health is no less work of national importance whether it is done in an institution controlled by Federal or by State authorities or by a private charitable corporation."

"The evidence is conclusive that the University of Chicago is a nonsectarian, nonprofit corporation, and that its clinics, to which Thomas was ordered to report for work, minister, on a charitable basis, indiscriminately, to alleviate the physical ills of the general public. In addition to that activity, these clinics, aided by grants of Federal funds, carry on extensive research in cancer and other diseases. We hold that this is the work of 'national' importance which the act authorized."

⁶⁹ *Id.* at 923.

⁷⁰ *Howze v. United States*, 272 F. 2d 146 (9th Cir. 1959); *United States v. Smith*, 124 F. Supp. 406 (E.D. Ill. 1954).

⁷¹ *Butler v. Perry*, 240 U.S. 328 (1916); *In re Dastler*, 35 Kans. 684, 12 Pac. 180 (1886).

⁷² *State ex rel. Curtis v. City of Topeka*, 36 Kans. 76, 12 Pac. 310 (1886).

⁷³ *Schick v. City of New Orleans*, 49 F. 2d 870 (5th Cir. 1931), cert. den. 284 U.S. 656.

⁷⁴ *Port v. Broderick*, 214 F. 2d 925 (10th Cir. 1954).

⁷⁵ *State ex rel. Arn v. State Commission of Revenue and Taxation*, 163 Kans. 240, 181 P. 2d 532 (1947).

⁷⁶ *Crews v. Lundquist*, 361 Ill. 193, 197 N.E. 768 (1935).

⁷⁷ *Commonwealth v. Pouliot*, 292 Mass. 229, 198 N.E. 266 (1935).

⁷⁸ *Id.* at 257.

Of course, this case does not hold that the husband is required to perform any particular kind of work to support his family. He may choose any work and any employer, if able. But if nothing else presents itself, he must work at what he can get. This requirement is based on two special circumstances. First he has voluntarily undertaken the obligation of raising a family. Secondly, no one else exists who can support his family. Thus, there is a special condition and obligation which imposes on him the duty of working.

In *Uie v. State*,²⁰ the Indiana Supreme Court held that a State may require a motorist who has struck and injured another person on the highway with his automobile to stop and render assistance to the injured party. The court declared that this was no involuntary servitude because it is a duty owed to the State and because an automobile is a dangerous instrumentality, and since a State may prohibit it, it may annex reasonable conditions to its use.

The first reason is unsatisfactory, since every duty imposed by a State does not become a duty owed to the State. The duty is clearly owed to the injured motorist or pedestrian. The second reason is more persuasive since a State may undertake to lessen the hazards of driving by imposing upon the driver the duty to assist one injured by his actions.

In terms of the constitutional prohibition against involuntary servitude, the most persuasive rationale for this exception is the special connection between the injured party and the one who has injured him. In an isolated area, no other assistance may be available. The State may reasonably act to save the lives and protect the health of its citizens, and where it cannot otherwise do so, it may impose this duty on one who, by his voluntary act in driving, has been the cause of the injury. Involuntary servitude is not imposed by requiring one to repair a wrong he has inflicted. He is the most appropriate person for the duty, performance of which is vital to life or health. While his service may not be willing, he is simply required to preserve that which he has jeopardized.

Two other cases are worthy of note. A lower Delaware court has held that a State may, as a war measure, mobilize its entire population to raise food and produce supplies.²¹ However, the authority of this case is somewhat doubtful in the light of a decision of the Supreme Court of West Virginia holding that a statute which provided that anyone who did not work for 36 hours a week at a recognized occupation during World War I and for 6 months thereafter was guilty of a misdemeanor was violative of the 13th amendment and hence unconstitutional.²²

Making and serving someone else a hamburger is not work for the government, for one's family, or for a party one has injured. Nor is cutting another's hair, carrying his luggage, shining his shoes, or performing other personal services for him. The 13th amendment gives every person the right to refrain from working for any other person. It protects barbers, hotel clerks, shoeshine men, salesclerks, waiters, and waitresses, just as much as it protects cottonpickers, field hands, or farm laborers. A waitress can no more be required to wait on all persons who come into her shop without discrimination than can a cottonpicker be required to pick cotton for all who want to hire him, without discrimination. The 13th amendment guarantees the right to refrain from work, from all work, from some work, or from work for some people. To coerce personal service is to impose involuntary servitude.

5. The right to discontinue work

The compulsory fulfillment of a contract for personal service, once voluntarily made, would not necessarily seem, on principle, to constitute involuntary servitude. This was, in fact, the rule in the Kingdom of Hawaii, and later the Republic of Hawaii, before joining the Union.²³ The performance of labor contracts, especially on agricultural plantations, was enforced by fine and imprisonment, notwithstanding the prohibition in the Hawaiian Constitution against "involuntary servitude." The rationale of this position was stated as follows:

"A fair and honest contract to work for another, willingly and freely made with a knowledge of the circumstances, cannot be said to have created a condition of involuntary servitude. The contracts which creates the state or condition of service, if it is voluntary when made and the conditions and circumstances remain unchanged, except that the mind of the one who serves is

²⁰ 208 Ind. 255, 194 N.E. 140 (1935).

²¹ *State v. McGuire*, 7 Boyce 265, 105 Atl. 712 (1919).

²² *Ex Parte Hudgins*, 86 W. Va. 526, 103 S.E. 327 (1920).

²³ *J. Nott & Co. v. Kanahelo*, 4 Hawaii 14 (1877).

now unwilling to fulfill it, is not by that fact changed into a contract of involuntary servitude forbidden by law. If the contract is lawful and constitutional in its inception, it does not become illegal or unconstitutional at the option of one of the parties to it."¹²

However, even in Hawaii, it was held that an employer could not assign a labor contract without the consent of the worker,¹³ on the theory that the new employer might have a less agreeable personality.¹⁴ Considering the fact that the employer might change his ways during the term of the contract, this reasoning would also support the right of the employee to quit at any time.

This is, in fact, the rule in the United States. Federal statutes have abolished involuntary servitude in liquidation of any debt or obligation, or for any other reason,¹⁵ and have made keeping a person in peonage a crime.¹⁶

The hallmark of peonage was compulsory service in the payment of a debt.¹⁷ Under this system, "the citizen could sell his own services, and could contract with another for the exercise of dominion thereafter over his person and liberty, so that he could be held or subjected, against his will, to the performance of his obligation."¹⁸ This practice was most prevalent in the South during the turn of the 20th century, where several State cases held that farm laborers could not be forced to work out advances.¹⁹

Since the 13th amendment, unlike the 14th amendment, is not directed exclusively at State action, but applies as well to private action, compulsory labor is unconstitutional even when exacted without benefit of State law.²⁰ In *Olyatt v. United States*,²¹ the Supreme Court pointed out why compulsory service was unconstitutional. It stated:

"But peonage, however created, is compulsory service, involuntary servitude. The peon can release himself therefrom, it is true, by the payment of the debt, but otherwise the service is enforced. A clear distinction exists between peonage and the voluntary performance of labor or rendering of services in payment of a debt. In the latter case the debtor, though contracting to pay his indebtedness by labor or service, and subject like any other contractor to an action for damages for breach of that contract, can elect at any time to break it, and no law or force compels performance or a continuance of the service."²²

"The sweeping scope of the right to cease work is apparent even in labor dispute cases, where the courts frequently enjoin strikes when they are illegal. The theory here is that the cessation of work itself is not being enjoined, but that the illegal combination or conspiracy is the object of the injunction." Thus, the

¹² *Hilo Sugar Co. v. Moshé*, 3 Hawaii 201, 205 (1891).

¹³ *Dreier v. Kuwa*, 4 Hawaii 584 (1882); *Waikae Plantation v. Kalepu*, 3 Hawaii 760 (1877).

¹⁴ See Judd, J. dissenting in *J. Nott & Co. v. Kanohelo*, 4 Hawaii 14, 21-2 (1877).

¹⁵ "It is no answer to say that one master is as good as another for the laborer, providing he fulfill all the written conditions of his contract, and observe whatever the law commands, doing nothing that is forbidden by it. Men are not cast in the same mold, and so long as differences of disposition and character exist, just so long as some masters will be preferred to others, and the laborer, if he is a freeman, ought to be allowed to exercise this right of choice."

¹⁶ 42 U.S.C. § 1994.

¹⁷ 18 U.S.C. § 1581.

¹⁸ *Jaramillo v. Romero*, 1 N. Mex. 190, 194 (1857) stated as follows:

"One fact existed universally: all were indebted to their masters. This was the cord by which they seemed bound to their masters' service. . . . He could not abandon the service; and if he did, his master pursued, reclaimed, and reduced him to obedience and labor again."

¹⁹ *Peonage cases*, 123 Fed. 671, 679 (M.D. Ala. 1903).

²⁰ *Holland v. State*, 29 Ala. App. 181, 194 So. 412 (1940); *Goode v. Nelson*, 73 Fla. 29, 74 So. 17 (1917) (statute making refusal to perform a labor contract a crime held to impose involuntary servitude); *Ex parte Holloman*, 70 S.C. 9, 60 S.E. 19 (1908) (same). See also *State ex rel. Hobbs v. Murrell*, 170 Tenn. 152, 73 S.W. 2d 628 (1936), holding that a person cannot be confined to work out costs even if he had agreed to do so.

²¹ *United States v. Gaskin*, 820 U.S. 527, (1944). See also *Taylor v. Georgia*, 315 U.S. 25 (1942).

²² 187 U.S. 207 (1905).

²³ *Id.* at 215. See also *Bailey v. Alabama*, 219 U.S. 219, 242 (1911), where the Court added:

"The fact that the debtor contracted to perform the labor which is sought to be compelled does not withdraw the attempted enforcement from the condemnation of the statute. . . . It is the compulsion of the service that the statute inhibits, for when that occurs, the condition of servitude is created, which would not be less involuntary because of the original agreement to work out the indebtedness. The contract exposes the debtor to liability for the loss due to the breach, but not to enforced labor."

²⁴ In *Bate v. Local No. 8-S, Oil Chemical & Atomic Workers International Union, AFL-CIO*, 317 S.W. 2d 309, 325 (Mo. 1958), the Court said: "The section under attack is directed against a strike or concerted refusal to work and has nothing to do with one or more quitting work of their own volition. The section does not have the purpose or effect of imposing involuntary servitude in violation of the 13th amendment." See also *International Brotherhood of Electrical Workers, Local No. 154 v. Western Union Telegraph Co.*, 46 F. 2d 786 (7th Cir. 1931).

courts enjoin the strike as the means by which the unlawful plan is carried into execution."

However, even in labor dispute cases, the courts have been careful to refrain from preventing any employee from quitting work of his own volition for any reason. Indeed, the U.S. Supreme Court appears to have sanctioned the constitutional right of employees to leave work in concert. Thus, in one case in which the Wisconsin Supreme Court proceeded on the "conspiracy theory,"⁶⁴ the U.S. Supreme Court, in affirming its decree, narrowed the basis for the injunction still further. It said:

"The union contends that the statute as thus applied violates the 13th amendment in that it imposes a form of compulsory service or involuntary servitude. However, nothing in the statute or the order makes it a crime to abandon work individually * * * or collectively nor does either undertake to prohibit or restrict any employee from leaving the service of the employer, either for reason or without reason, either with or without notice. The facts afford no foundation for the contention that any action of the State has the purpose or effect of imposing any form of involuntary servitude."⁶⁵

From this case, it can be seen that employees have a constitutional right to leave work in concert, as long as such concerted action is not in furtherance of an illegal plan, and in any case, a right to leave work singly. As one court put it: "It would be an invasion of one's natural liberty to compel him to work for or to remain in the personal service of another. One who is placed under such constraint is in a condition of involuntary servitude * * *."⁶⁶

The right to leave the employ of another does not include the right to engage in action which is likely to result in injury to persons or property damage. When once an employee undertakes a job, he cannot leave at such a point that injury or damage is a natural consequence of his cessation of work. Where there is no such threat, he may leave at any time, but where such a possibility exists, he must either give such notice as will enable the employer to avert the danger, or delay his departure until the danger has passed. One case illustrated this point quite well, as follows:

"It is not contended that leaving the service cannot under any circumstances be made a criminal offense. Doubtless it is competent for legislation to make it a criminal offense for an employee, without giving reasonable notice, to suddenly quit duties the continued performance of which, for the time being, under the conditions of the particular calling, is necessary to prevent the endangering of life, health, or limb, or inflicting other grievous inconvenience and sacrifice upon the public. Surely a train dispatcher, indicted for suddenly leaving the service without giving orders necessary to prevent the clash of opposing trains upon a railroad, could not successfully plead, when destruction of life and property were

⁶⁴ This was clearly pointed out in *Western Union Telegraph Co. v. International Brotherhood of Electrical Workers*, 2 F. 2d 993, 994-5 (N. Dak., Ill., 1924), where the Court said:

"As to clause 1 of the prayer for a temporary injunction it is said that it prevents employees from ceasing to work, and therefore imposes involuntary servitude upon them. The right to cease work is no more an absolute right than is any other right protected by the Constitution. Broadly speaking, of course, one has the right to work for whom he will, to cease work when he wishes, and to be answerable to no one unless he has been guilty of a breach of contract. But the cessation of work may be an affirmative step in an unlawful plan. One may not accept employment intending thereby to quit work when that act will enable him to perform one step in a criminal conspiracy. The real wrong is the acceptance of the employment, with intent to make us of it for a criminal purpose."

"That no excuse for misrepresenting the true scope of this injunction may remain, the following should be added:

"Nothing herein shall be construed to prohibit any employee from voluntarily ceasing work unless said act is in furtherance of the conspiracy charged in the bill herein to prevent plaintiff from performing its contracts with its customers and to compel plaintiff to discharge employees who are not members of labor unions which are affiliated with said defendants."

⁶⁵ *International Union, U.A.W.A., A.F. of L., Local 333 v. Wisconsin Employment Relations Board*, 250 Wis. 550, 27 N.W. 2d 875, 881 (1947), said:

"The quitting and remaining away from work in the instant cases was done pursuant to a conspiracy to carry out an unlawful plan. There are many cases to the point that a conspiracy to commit a criminal act may be enjoined * * *. For two or more persons to conspire to do an act to the injury of another which one person acting alone might lawfully do constitutes in this State a legal wrong * * *. If a conspiracy to do a criminal act may be enjoined so may conspiracy to do an illegal act not criminal."

⁶⁶ *International Union, U.A.W.A., A.F. of L., Local 333 v. Wisconsin Employment Relations Board*, 338 U.S. 245, 251 (1949).

⁶⁷ *Arthur v. Oakes*, 63 Fed. 310, 317-318 (7th Cir. 1894).

brought about by his sudden leaving, that he could not be punished, because he did no more than breach a contract of service. In these and like cases, the criminal law would be exerted not to compel performance, or to prevent quitting the service in a reasonable way, but because, by abandoning it in an unreasonable way the employee has created a condition of affairs, the natural, direct, and known result of which is to endanger life, health, or limb, or to inflict grievous public injury."¹⁰⁰

*Robertson v. Baldwin*¹⁰¹ can best be explained on this rationale. In that case, a majority of the U.S. Supreme Court held that a sailor was bound to fulfill his contract of service even though, during his term, he desired to quit. After pointing out the danger to be anticipated to the ship, its passengers, crew and cargo, from indiscriminate quitting by seamen, the Court held that the service was exceptional, and hence that restrictions on cessation of work did not constitute "involuntary servitude."¹⁰²

Mr. Justice Harlan dissented. He took an absolutist position on the other side. He said that "the condition of one who contracts to render personal services in connection with the private business of another becomes a condition of involuntary servitude from the moment he is compelled against his will to continue in such service."¹⁰³ Thus, the majority of the Court declared that a seaman could be forced to serve his full term; the dissent declared that he could not be required to serve any of it.¹⁰⁴

Between these two extremes there is a middle ground. A sailor might be required to serve until he could be conveniently replaced. To compel him not to abandon ship in the middle of the ocean or even in a strange port seems like a logical method of assuring the safe return of the vessel. To require him to continue serving after the vessel has reached an American port and a replacement can be secured is to nullify the freedom of a sailor to change jobs by an inflexion to the general rule not warranted by the actual facts of the case. Insofar as *Robertson v. Baldwin* extends to such service, it stands on a very shaky foundation.

The implications of the right to cease work for antidiscrimination legislation are clear. Since personal service is compelled in the first place, it is obvious that to permit the cessation of work before completion would frustrate the purposes of the law. It would hardly do to permit the unwilling barber to cut one side of his customer's head of hair or shave one side of his face, and then announce that he was unwilling to go any further. Obviously, antidiscrimination legislation in personal services infringes on the right to cease work as well as the right not to start it.

6. Voluntariness of service

That antidiscrimination legislation in personal services requires "servitude" has already been demonstrated beyond doubt. However, a question may be raised as to whether such service to a Negro would be "involuntary." An argument may be made that the barber, for example, is free to cease barbering at any time. Hence, it may be contended, that as long as he voluntarily continues to be a barber, he is not subjected to involuntary servitude if he is forced to serve all who apply.

Preliminarily, such an argument overlooks the right to work. The "liberty" mentioned in the 14th amendment includes the right to "work * * * to earn his livelihood by any lawful calling; to pursue any livelihood or avocation * * * [and] the right to follow any of the common occupations of life is an inalien-

¹⁰⁰ *Peonage cases*, 123 Fed. 671, 685-6 (M.D. Ala. 1903).

¹⁰¹ 165 U.S. 275 (1897).

¹⁰² *Id.* at 282, where the Court said:

"It is clear, however, that the amendment was not intended to introduce any novel doctrine with respect to certain descriptions of service which have always been treated as exceptional; such as military and naval enlistments, or to disturb the right of parents and guardians to the custody of their minor children or wards. The amendment, however, makes no distinction between a public and a private service. To say that persons engaged in a public service are not within the amendment is to admit that there are exceptions to its general language, and the further question is at once presented, where shall the line be drawn? We know of no better answer to make than to say that services which have from time immemorial been treated as exceptional shall not be regarded as within its purview."

¹⁰³ *Id.* at 301.

¹⁰⁴ See also *Himan v. Moller*, 11 F. 2d 55 (4th Cir. 1926) holding that it would be involuntary servitude to require a sailor to fulfill his contract to serve on board ship but, curiously enough, not citing or discussing *Robertson v. Baldwin*.

able right."¹⁰³ The Supreme Court has held that "the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the [14th amendment] to secure."¹⁰⁴ Indeed, the Court pointed out that to deny persons the right to work to earn a living is tantamount to excluding them from the State, since "in ordinary cases they cannot live where they cannot work."¹⁰⁵

To say that a person must either work for everyone involuntarily or not work at all is to require him to choose between his 13th amendment rights and his 14th amendment rights. Such a rule conditions the exercise of his 14th amendment rights to work at his chosen occupation with an unconstitutional condition, the surrender of his right to be free from involuntary servitude. Unconstitutional conditions may not ever be annexed to the exercise of a privilege.¹⁰⁶ It is all the more certain that they cannot be used to limit the exercise of a constitutional right.

Even leaving aside the 14th amendment right to work, antidiscrimination laws which provide in effect that a person must serve another on pain of leaving his chosen occupation is involuntary servitude since the alternative to the servitude is punishment. It is well settled that the 13th amendment encompasses more than physical compulsion to labor. Punishment for refusal to work is also within its scope.¹⁰⁷

The Supreme Court has several times pointed out that exclusion from one's occupation is punishment. In *Cummings v. Missouri*,¹⁰⁸ the court held that deprivation of the right to engage in a lawful occupation is punishment,¹⁰⁹ and further stated: "Disqualification from the pursuits of lawful avocation * * * may also, and often has been, imposed as punishment."¹¹⁰ When this disqualification stems, "not from any notion that the several acts designated unfits for the callings, but because it was thought that the several acts deserved punishment,"¹¹¹ then the punitive nature of the disqualification is clear.

*Ex Parte Garland*¹¹² is to the same effect. The court there held that "an exclusion from any of the professions or any of the ordinary avocations of life for past conduct can be regarded in no other light than as punishment for such conduct."¹¹³ Likewise, the court said:

"The legislature may * * * prescribe qualifications for the pursuit of any of the ordinary avocations of life. The question in this case, is not as to the power of Congress to prescribe qualifications, but whether that power has been exercised as a means for the infliction of punishment, against the prohibition of the Constitution * * * this result cannot be effected indirectly by a State under the form of creating qualifications * * *."¹¹⁴

Finally, in the more recent case of *United States v. Lovett*,¹¹⁵ the court was concerned with "a legislative decree of perpetual exclusion from a chosen vocation." Mr. Justice Black held that "this permanent proscription from any opportunity to serve the government is punishment, and of a most severe type."¹¹⁶

Where a barber or waiter is permanently barred from earning a living in his occupation unless he serves all who apply, the reality of the situation is that he is

¹⁰³ *Allgeyer v. Louisiana*, 165 U.S. 578, 589 (1897). See also the statement of Representative John A. Bingham, of Ohio, who drafted the first section of the 14th amendment, that "liberty * * * is the liberty * * * to work in an honest calling and contribute by your toil in some sort to the support of yourself * * *." Congressional Globe, 42d Cong., 1st sess., app. 86 (1871).

¹⁰⁴ *Truax v. Reich*, 239 U.S. 33, 41 (1915).

¹⁰⁵ *Id.* at 42.

¹⁰⁶ *Spelcer v. Randall*, 357 U.S. 518 (1958); *Western Union Telegraph Co. v. Kansas*, 216 U.S. 1 (1910).

¹⁰⁷ *United States v. Clement*, 171 Fed. 974 (D.S.C. 1909). See also *United States v. Reynolds*, 235 U.S. 138, 146 (1914), where the Court said:

"This labor is performed under the constant coercion and threat of another possible arrest and prosecution in case he violates the labor contract which he has made with the surety, and this form of coercion is as potent as it would have been had the law provided for the seizure and compulsory service of the convict. Compulsion of such service by the constant fear of imprisonment under criminal laws renders the work compulsory, as much so as authority to arrest and hold his person would be if the law authorized that to be done."

¹⁰⁸ 71 U.S. (4 Wall.) 277 (1866).

¹⁰⁹ *Id.* at 321-2.

¹¹⁰ *Id.* at 320.

¹¹¹ *Ibid.*

¹¹² 71 U.S. (4 Wall.) 338 (1866).

¹¹³ *Id.* at 377.

¹¹⁴ *Id.* at 379-80.

¹¹⁵ 328 U.S. 803 (1946).

¹¹⁶ *Id.* at 816.

being punished for refusing service. The exclusion from his calling is a particularly severe sort of punishment. To force him to serve on pain of such exclusion constitutes involuntary servitude.

Even, however, were the alternative to serving everyone without discrimination of going out of business or leaving one's occupation not deemed, strictly speaking, punishment, nevertheless, this alternative constitutes such a degree of coercion as to make the service involuntary. It is well settled that the method of coercion which compels the labor is immaterial,¹¹⁷ and that coercion is equally forbidden although exercised under the forms of law.¹¹⁸

That the loss of the right to serve others, and thereby earn one's living, is coercion of the most potent sort for all but the wealthy few, can hardly be gainsaid. It has been held that a statute which tends to prevent a worker who has broken a contract of service from making a second contract of service with a new employer during the term of the first contract is unconstitutional under the 13th amendment as imposing involuntary servitude.¹¹⁹ One court said:

"If no one else could have employed Carver during the term of his contract with plaintiff, after he had elected to break that contract, without incurring liability to plaintiff for damages, the result would have been to coerce him to perform the labor required by the contract for he had to work or starve. The compulsion would have been scarcely less effectual than if it had been induced by the fear of punishment under a criminal statute for breach of his contract. * * * The prohibition is as effective against indirect as it is against direct actions and laws—statutes or decisions—which, in operation and effect, produce the condition prohibited. The validity of the law is determined by its operation and effect."¹²⁰

However, the opinion most closely in point is that in the *Peonage* cases.¹²¹ The court there first noted:

"What is this but declaring, if a man breaks his contract with his creditor without just excuse, he shall not work at his accustomed vocation for others without permission of the creditor? What is this but a coercive weapon placed by the law in the hands of the employer to compel the debtor to pay a debt, to perform the contract?"¹²²

The court then spoke of the right to work. It said:

"This statute practically attaints the debtor and makes him a legal pariah if he attempts to exercise his right to labor without another man's consent, and that man his creditor. One of the most valuable liberties of man is to work where he pleases, and to quit one employment and go to another, subject, of course, to civil liability for breach of contract obligations. These laws attempt to take this right away and destroy this liberty."¹²³

The coercion inherent in limiting the right to work was then set forth. The opinion states:

"The leaving of the service, whether with or without just excuse, puts insuperable obstacles in the way of earning a livelihood, by the sweat of his brow, elsewhere than with the first employer or on the rented premises. He must stay there, or else, leaving, must starve, or go to work elsewhere, which in most instances he cannot do except by violating this statute and running the risk of conviction for crime, by not informing the new employer. Practically, the law places the laborer or renter at the mercy of his first employer, because of the broken civil contract. An employer with such power over the sustenance and liberty of another is master of his destiny and liberty, and the laborer or renter in such a condition is a serf in all but name * * *"¹²⁴

It concludes:

"The whole scheme and purpose and the inevitable effect of these statutes are to coerce the laborer or renter to pay a debt, return to a personal service, by stress of penal enactments leveled at his person in the one instance and against his right to work in the other. * * * The debtor cannot be compelled

¹¹⁷ *Pierce v. United States*, 146 F. 2d 84 (5th Cir. 1944), cert. den. 324 U.S. 873. See also *Bernal v. United States*, 241 Fed. 339 (5th Cir. 1917).

¹¹⁸ *In re Peonage Charge*, 138 Fed. 686 (N.D. Fla. 1905).

¹¹⁹ *Hill v. Duckworth*, 155 Miss. 484, 124 So. 641 (1929); *State v. Armistead*, 103 Miss. 790, 60 So. 778 (1913).

¹²⁰ *Shaw v. Fisher*, 118 S.C. 287, 102 S.E. 325, 327 (1920).

¹²¹ 128 Fed. 671 (M.D. Ala. 1903).

¹²² *Id.* at 685.

¹²³ *Id.* at 686.

¹²⁴ *Id.* at 687.

to put himself upon the blacklist that he may be prevented from getting work without an employer's consent, in order to coerce him to the performance of a contract of personal service * * *." ¹²⁵

The coercion inherent in barring a person from any other employment is quite different in degree or kind from an action for breach of contract, which may lie if an employee breaches an agreement to render personal services. In such cases, the employee may become liable for actual damages sustained by his employer, if any. This is true of any contractor. However, he is not disabled from earning money entirely. The extraordinary compulsion inherent in such a disability is far different from a requirement that the aggrieved employer be compensated for his actual loss. ¹²⁶

Even less is the compulsion, if it can be called that, inherent in the withdrawal of wages or other benefits from an individual who will not work. Such individual is free to substitute other work. He can work for whoever he pleases. The pay he receives is a benefit which he may take or not by working or not, but if he declines one job he may still earn his living at another. Hence, his decision to work at a particular job is voluntary even if he is motivated by the desire for the compensation it offers. ¹²⁷ This is a far cry from the case of an individual who loses all right to work for anyone by declining one job or type of service.

It must be remembered that, however compelling the need may seem that individuals serve others in particular situations, such a requirement flies in the face of the strong and clear policy of the 13th amendment. It has been truly observed that "to compel one person to labor for another against his will is legalized thralldom." ¹²⁸ And the Supreme Court has declared that "The undoubted aim of the 13th amendment * * * was not merely to end slavery but to maintain a system of completely free and voluntary labor throughout the United States." ¹²⁹ The clear words of this amendment cannot be frittered away by subtle subterfuge or refined legaleze.

Nor does the fact that the worker's refusal to work for a particular patron or client may be based on arbitrary grounds alter the legal effect of the amendment. Indeed, even peons could leave their masters for adequate cause. ¹³⁰

¹²⁵ Ibid. See also *Id.* at 691, where the Court declared: "When the statutes declare that no one shall give croppers or laborers employment, if they break, without sufficient excuse, contracts of personal service with former employers, without their consent, what is this but declaring, because a person in a certain calling or occupation has broken a contract, that he shall not avail himself, no matter what his necessities, of the usual means, open to all other men, to obtain food or raiment, except by consent of a former employer?"

¹²⁶ In *Shaw v. Fisher*, 113 S.C. 287, 102 S.E. 325, 327 (1920) the Court declared: "Of course, the sanction of the obligation of the contract and the liability to pay damages for breach thereof inhere in every contract, and those alone do not amount to that compulsion which is prohibited so long as the employee has the liberty at any time to elect to break the contract, subject only to the legal consequences—an action for damages—just like any other contractor. But if the law should penalize all who give him employment, after he has breached his contract, the effect would be to deny to him the same freedom that every other contractor enjoys, to wit, that of electing at any time to break his contract, subject only to his liability for damages. To that extent, liberty of action and freedom of contract is guaranteed by the 14th amendment."

¹²⁷ In *Tyler v. Heldorn*, 46 Barb 439, 458-459 (N.Y., 1866), the Court made this distinction, saying:

"The term involuntary servitude, in my opinion, * * * [embraces] everything under the name of servitude, though not denominated slavery, which gives to one person the control and ownership of the involuntary and compulsory services of another against his will and consent."

"3. The amendment in question was never intended to, and in my opinion does not, embrace contract service of any description, or such as flows from contracts made by a party, or grows out of a contract made by another person in regard to property and connected with its enjoyment, which property such party derives from such other person and personally enjoys. Such service is never involuntary. The party may at any time renounce it. It is connected with the enjoyment of property, and by refusing to accept or to enjoy the property, the party may at all times escape the personal servitude. These contracts are always either voluntarily entered into by the party himself, or else they embrace a subject, or property, by relinquishing which the party always relieves himself from the obligation attached to it * * *. By taking the benefit of the grant he voluntarily assumed the liabilities of the original grantee, in respect to the subject of the grant. The servitude, therefore * * * was not involuntary."

¹²⁸ *Ex parte Drayton*, 153 Fed. 986, 991 (1907).

¹²⁹ *Pollock v. Williams*, 322 U.S. 4, 17 (1944).

¹³⁰ *Peonage cases*, 123 Fed. 671, 674 (M.D. Ala., 1903), where the Court stated that the peon could abandon his status "by some sufficient motive given by one party to another, such as having grievously injured him, or where the master kept the accounts in an ambiguous manner, so that the servant could not understand them."

The worker's right to discriminate on arbitrary grounds against serving particular clients or customers is perhaps most strongly illustrated by *Delorme v. International Bartenders' Union, Local 624*.¹²¹

In this case, the plaintiff tavern owner found himself caught in a jurisdictional dispute between the Teamsters Union and the Brewery Workers Union. Because he bought beer brewed by the brewery workers, teamsters picketed his tavern and collectively refused to deliver supplies purchased by plaintiff from their employers. The plaintiff sued for an injunction, and the trial court found that the drivers were part of a conspiracy to drive the plaintiff out of business by withholding supplies and refusing to deliver them. The trial court then enjoined the teamsters from interfering with the plaintiff's business. Later, upon a proceeding for contempt, the trial court further found that with knowledge of the decree and with intent to violate it, the Teamsters Union and drivers conspired not to deliver supplies to the plaintiff. The court thereupon decreed that the drivers—

"be and they are hereby directed in the future while employed as drivers delivering products and commodities to refrain from making any discrimination against plaintiff, Leo Delorme, until further order of the court or until such time as this order may be modified.

"It is further ordered that respondents be and they are hereby directed to forthwith purge themselves of the said contempt by refraining in the future from refusing to make deliveries of products and commodities to Leo Delorme on the same terms and conditions as to any other person and when directed by their employer to do so until such time as this order is modified or reversed."¹²²

The drivers appealed to the Washington State Supreme Court, contending that the order requiring them to deliver products to plaintiff and not to discriminate against him constituted involuntary servitude. That court held that while a mandatory injunction in a proper case did not violate the 13th amendment, "the portion of the decree entered by the trial court containing a mandatory injunction requiring appellants to deliver products and commodities from their respective employers' establishments to the respondent, Leo Delorme, appears to be subject to valid objection . . ."¹²³ The State supreme court thereupon modified the decree to make it permissive for the drivers to purge themselves of contempt by delivering products to plaintiff instead of mandatory, as the trial court had done, and further provided that if the drivers failed to so purge themselves of their prior contempt, the court might punish them in an appropriate fashion.

This case is, of course, highly significant, and a strong one indeed for a mandatory injunction. The drivers have conspired to ruin the plaintiff by not delivering the products he needs. As previously noted, such a conspiracy is illegal, even though the individual drivers could, on their own, refuse to deliver products to the plaintiff. The trial court has ordered the drivers to repair the damage from their unlawful conspiracy by ceasing the object of the conspiracy, and by engaging in the deliveries. However, even in such a case, the State supreme court is unwilling to require the drivers to refrain from discrimination. Not even a contempt of a prior decree whose validity is unchallenged can result in an affirmative mandate not to discriminate to alleviate the effects of the conspiracy. So strong is the policy of the law against involuntary servitude that not even a conspiracy not to serve can result in a decree requiring service. antidiscrimination legislation can hardly justify a different result.

7. Conclusion

It is one of the most compelling ironies of history to find that in 1963, Negroes are demanding laws to compel whites to serve them in the very same occupations which they themselves were freed from serving whites in 1863, and demanding this under the name of "freedom." For the fact is that a century ago, Negroes had a near monopoly of the service occupations now engaged in by employees of so-called "places of public accommodation."¹²⁴

¹²¹ 18 Wash. 2d 444, 189 P. 2d 619 (1948).

¹²² *Id.* at 621.

¹²³ *Id.* at 625.

¹²⁴ Myrdal, "An American Dilemma" 293 (1944), notes that up to 1910, Negroes in the North were concentrated in service occupations, especially as waiters and barbers.

For example, New York has one of the most stringent set of antidiscrimination laws. Yet these laws cover the occupations in which Negroes were compelled to serve a century ago. Thus, we are told:

"For generations the New York Negroes had had an almost uncontested field in many of the gainful occupations. They were * * * bootblacks, barbers, hotel waiters, * * * ladies' hairdressers, caterers, coachmen. (At that time a black coachman was almost as sure a guarantee of aristocracy for a northern white family as a black mammy for a family of the South.) The U.S. census of 1850 lists New York Negroes in 14 trades * * * as caterers—a number of individuals actually grew wealthy."¹²⁵

In a number of northern localities, it was not until the great wave of European immigration during the 1840's and 1850's that the Negro monopoly on these service occupations was terminated. In 1853, Frederick Douglass complained:

"Every hour sees the black man [in the North] elbowed out of employment by some newly arrived immigrant whose hunger and whose color are thought to give him a better title to the place; and so we believe it will continue to be until the last prop is leveled beneath us—white men are becoming house servants, cooks, and stewards on vessels; at hotels, they are becoming porters * * * and barbers—a few years ago a white barber would have been a curiosity. Now their poles stand on every street. * * *"¹²⁶

In the South, Negroes predominated in the service occupations well into the 20th century. As late as 1930, 40 percent of the workers in southern hotels, restaurants, and similar establishments were Negro; in 1940, 32 percent were Negro. Myrdal observed that the "loss of the Negro male waiters was largely the gain of the white waitresses." He further noted that "travelers in the South often have occasion to observe that, nowadays, the most modern and busiest hotels and restaurants tend to have white bellboys and white waitresses whereas the old-fashioned places tend to have Negro servants."¹²⁷ Thus a century ago, the Emancipation Proclamation decreed that Negro waiters and waitresses would no longer have to serve white college students; now a hundred years later, Negro college students are demanding laws to compel white waiters and waitresses to serve them.

Negro barbers in the South likewise had a monopoly of this form of involuntary servitude before the Civil War. Myrdal notes:

"In the old South, after the passing of wigs and elaborate hair dressing for men, the barber business fell largely into the hands of blacks. An old southern gentleman once told me that on his first visit to the North he experienced a kind of shame for the white man who cut his hair and the white girls who waited on him at table."¹²⁸

Thus, we now find, a century after Negroes were freed from the involuntary servitude of cutting the hair of whites, a demand from their descendants that whites be forced by law to cut their hair. Perhaps Negroes who say that the Emancipation Proclamation's first century is being celebrated a hundred years too soon are right. Perhaps the problem with that document is that it, discriminated on racial grounds, and included only Negroes within its terms.

The 13th amendment, however, contained no such limitation. Instead, "the generality of its language makes its prohibition apply to slavery of white men as well as that of black men; and also to * * * every other form of compulsory labor to minister to the pleasure, caprice, vanity or power of others."¹²⁹ The 13th amendment makes no distinction as to who enforces the labor;¹³⁰ nor does it distinguish from whom compulsory service is extracted. Rather the amendment "reaches every race and every individual * * *." Slavery or involuntary servitude of the Chinese, of the Italian, of the Anglo-Saxon are as much within

¹²⁵ Id. at 1256.

¹²⁶ Id. at 281.

¹²⁷ Id. at 1088. He also notes at p. 282: "In a few old cities on the Atlantic coast the observer meets an old Negro barber, catering to a passing generation of southern gentlemen. Negro waiters are still common, but not so common as even 10 years ago. White waitresses are gradually being substituted for them."

¹²⁸ Id. at 1255, quoting Wertenbaker, "The Old South" 232 (1942). See also Myrdal's remarks at pp. 1088-1089, where he declares: "The Negro barber has lost most of his white business in the South. His gains have been restricted to the segregated Negro neighborhoods * * *."

¹²⁹ *Railroad Tax Cases*, 13 Fed. 722, 740 (C.C. Calif., 1882).

¹³⁰ See, for example, *United States v. Choctaw Nation*, 38 Ct. Cl. 558 (1903), and 193 U.S. 115 (1904), holding that the slaves of Indian tribes within the United States were freed by the amendment.

its compass as slavery or involuntary servitude of the African."¹⁴¹ As the Supreme Court has so eloquently declared:

"The language of the 13th amendment was not new. It reproduced the historic words of the ordinance of 1787 for the government of the Northwest Territory and gave them unrestricted application within the United States and all places subject to their jurisdiction. While the immediate concern was with African slavery, the amendment was not limited to that. It was a charter of universal freedom for all persons, of whatever race, color or estate, under the flag * * *. The plain intention was * * * to make labor free, by prohibiting that control by which the personal service of one man is disposed of or coerced for another's benefit which is the essence of involuntary servitude."¹⁴²

The fact that Negroes, or those who sympathize with their aspirations, may believe that white persons who refuse to serve them are being arbitrary or capricious, does not alter in any way the legal effect of the 13th amendment. This provision bans absolutely, and in the most express terms, the claim of any person to force any other person to serve him, for any reason whatsoever. Correspondingly, it confers on every person the absolute and unfettered right to refuse, for any reason or none at all, to serve any other person. This constitutionally protected right cannot be abridged or fettered on any pretext or for any reason whatever, as it is the cornerstone of personal freedom and liberty in the United States. Those Negro college students and their white sympathizers who so loudly chant a demand for "freedom" and their "Constitutional rights," and who so vociferously demand that whites serve them,¹⁴³ would do well to first examine the Constitution themselves, and find out where their freedom and constitutional rights end, and those of others they would in fact violate, begin. As one case unequivocally stated:

"We are not advised of any rule of law under which any man in this country will be forced to serve with his labor any other man whom he does not wish to serve.

"If the injunctive order be construed to mean that the officers and members of the Longshoremen Association Local No. 1416 were thereby required to load or unload the trucks of "Collins" although there was no contractual relation between the local and Collins, then such construction would violate the constitutional provision above referred to. We think it will not be contended that any member of the local could be committed to jail for refusing to load or unload the "Collins" trucks. That service required the performance of manual labor and it is beyond the power of courts to punish one by imprisonment for failure to engage in involuntary servitude."¹⁴⁴

That antidiscrimination laws which compel one person to serve another are unconstitutional seems to be open to little doubt. However, most judges before whom such cases have come have acted as if they never heard of the 13th amendment. But one perceptive jurist, Judge Joseph H. Mallory of the Washington State Supreme Court, recently recognized the conflict between such legislation and the U.S. Constitution. To this author, his dissenting opinion in *Browning v. Slenderella System*¹⁴⁵ "hits the nail on the head" and should be required reading for all sit-ins claiming "constitutional rights." The opinion is well worth quoting. As Judge Mallory declared:

"All persons familiar with the rights of English speaking peoples know that their liberty inheres in the scope of the individual's right to make uncoerced choices as to what he will think and say; to what religion he will adhere; what occupation he will choose; where, when, how, and for whom he will work, and generally to be free to make his own decisions and choose his courses of action in his private civil affairs. These constitutional rights of law-abiding citizens are the very essence of American liberties * * *.

"* * * [D]iscrimination is but another word for free choice. Indeed, he would not be free himself if he had no right so to do. In dealings between men, both cannot be free unless each acts voluntarily, otherwise one is subjected to the other's will.

¹⁴¹ *Hodges v. United States*, 203 U.S. 1, 16-17 (1906).

¹⁴² *Bailey v. Alabama*, 219 U.S. 219, 240-241 (1911).

¹⁴³ See New York Times, July 7, 1963, p. 1, col. 2.

¹⁴⁴ *Henderson v. Coleman*, 160 Fla. 185, 7 So. 2d 117, 121 (1942).

¹⁴⁵ 54 Wash. 2d 440, 341 P. 2d 859 (1959).

"Cash registers ring for a Negro's as well as for a white man's money. Practically all American businesses, excepting a few having social overtones or involving personal services, actively seek Negro patronage for that reason. The few that do not serve Negroes adopt that policy either because their clientele insist upon exclusiveness, or because of the reluctance of employees to render intimate personal service to Negroes. Both the clientele and the business operator have a constitutional right to discriminate in their private affairs upon any conceivable basis. The right to exclusiveness, like the right to privacy, is essential to freedom. No one is legally aggrieved by its exercise.

"The majority opinion violates the 13th amendment to the U.S. Constitution. It provides, *inter alia*: "Neither slavery nor involuntary servitude . . . shall exist within the United States . . ." (italics by court). Negroes should be familiar with this amendment. Since its passage, they have not been compelled to serve any man against their will. When a white woman is compelled against her will to give a Negress a Swedish massage, that too is involuntary servitude . . ."

"Through what an arc the pendulum of Negro rights has swung since the extreme position of the Dred Scott decision. Those rights reached dead center when the 13th amendment to the U.S. Constitution abolished the ancient wrong of Negro slavery. This court has now swung to the opposite extreme in its opinion subjecting white people to "involuntary servitude" to Negroes."

STATEMENT OF OSCAR H. BRINKMAN, ON BEHALF OF NATIONAL APARTMENT OWNERS ASSOCIATION

My name is Oscar H. Brinkman, of Washington, D.C., and I present this statement to you on behalf of the National Apartment Owners Association, Inc., a nonprofit organization whose members throughout the United States own, control, and manage apartment houses, motels, and other rental housing. We have affiliated local associations in many cities.

I am cochairman of the legislative committee of the association, of which Mr. Henry DuLaurence of Cleveland, Ohio, is also cochairman. We present views that are in accord with policy resolutions adopted unanimously at national conventions of our organization.

It think it may be of some interest to the committee to know that there is no racial or religious restriction on membership in our organization. Furthermore, any member of the association who owns rental property may, so far as our organization is concerned, serve any and all persons regardless of race or religion.

We are particularly concerned with sections of the pending so-called civil rights legislation, and S. 1732, relating to what are termed "public accommodations." The provisions of the bill are so broadly drawn that we believe they constitute a menace to the basic civil and constitutional right of every citizen to own and control private property.

They would, if enacted and enforced, and added to by bureaucratic interpretations, subvert and violate the intent of article V of the amendments to the U.S. Constitution as well as article XIV.

One of the fundamental purposes of a just government, but not a Communist state, is to protect the right of citizens to acquire, own, use, possess, and control their own property. It is a great human right, and the impairment or deprivation of that right would cause great and irreparable harm to the Nation's economy and the general welfare of all our people. It is an integral part of what we term the "free enterprise" system under which this Nation has prospered, and from which we derive our strength and well-being.

Surely no one would take away from one class or citizens the right to exercise judgment as to which business establishment to patronize and which not to deal with. At this very moment, organized boycotts are being conducted by racial groups, and no legal action against them on that account is even being considered by the Government. This is not discrimination. It is the exercise of free choice. The same right, in principle, is possessed by the owner of private property or a business: To exercise a choice as to whom he will serve.

in Seattle, the man who is to be taken care of is the one who is to be taken care of. The man who is to be taken care of is the one who is to be taken care of. The man who is to be taken care of is the one who is to be taken care of.

The fact is that there is no racial group in the United States that does not possess the fundamental rights to acquire property, to establish businesses, banks, hotels, restaurants, places of amusement, and enterprises of other kinds, and to manage them as they see fit, serving whom they will.

But the moment the Government attempts to force the owner of private property, enjoying no special public franchise, to serve those whom he does not care to deal with, discord, dissension, and even hatred are bred.

The history of the prohibition amendment to the Constitution gives all the evidence that is needed to prove, conclusively, that it is impossible to successfully enforce laws that are opposed to the social views and habits of a substantial proportion of a nation's population. Lawlessness and violence are increasingly bred, despite the activities of prosecutors and courts.

The legislation now proposed is even more drastic than that of the prohibition era, in that it would deprive the owners of private property of inherent rights without even provision for jury trials. This is a long step in the direction of despotism.

The experience of some of the members of our association with voluntary attempts to racially integrate their apartment properties has furnished proof of the impossibility of forcing people to accept neighbors whom they do not like. When one of the so-called minority group moves in, the majority group moves out, and the end result may be financially calamitous to an owner who has had no racial prejudices of his own. And again, the new tenants are "segregated."

We believe that racial prejudice and discrimination cannot be successfully dealt with by stringent laws, but that the cure can be accomplished only through the process of appealing to the hearts, minds, and conscience of men and women and children.

But we take the liberty of reminding members of this committee that other large groups of people who in past decades were the objects of prejudice and discrimination, by dint of their own efforts succeeded in acquiring property, establishing businesses, organizing social clubs, and eventually won their way to social acceptance by being hardworking, law-abiding citizens imbued with a desire for self-improvement and self-help.

Summed up, we believe the public accommodations and some other sections of the bills now being considered would do more harm than good to those whom it is intended to benefit. And certainly it would be destructive of the great civil right of all of us to own, possess, and control private property.

STATEMENT OF JOSEPH H. CROWN, ATTORNEY

The civil rights program embodied in the legislation presently under consideration by the Congress reflects the minimum requirements of the present situation in our country. It represents an important step, belated nevertheless, toward discharging the moral obligation of our Federal Government to its Negro citizens.

I would urge however that supplementary legislation be adopted to create a fair employment practice commission with adequate authority to compel the attendance of witnesses and production of evidence and for the enforcement of its decrees.

It is also imperative that the authority of the Attorney General be extended to initiate and file suits for the protection and enforcement of its decrees.

It is more than a century that the Emancipation Proclamation made by Abraham Lincoln has been promulgated. It is late in the day but this Congress can make history by adopting a vigorous civil rights program. It is also important that supplementary legislation be enacted that would provide sanctions against unions that discriminate against Negroes.

Race has no place in American law and life—that should be the guiding principle of our country.

STATEMENT OF ROBERT B. DRESSER, ATTORNEY

I. FOREWORD

My name is Robert B. Dresser. I am a member of a law firm with offices at 15 Westminister Street, Providence, R.I. This statement is submitted individually in my own behalf.

II. STATEMENT

For some years past there has been in progress in this country a movement to compel the recognition of certain so-called civil rights of the Negro population. The civil rights of the American Indian, Chinese, Japanese, and people of other racial origin appear to have been ignored, perhaps because they were not numerous enough to warrant attention or perhaps for some other reason.

Civil rights

The rights of which it is claimed the Negroes have been deprived include such rights as the rights to (1) equal accommodations in public facilities, (2) integration of schools, and (3) fair and full employment.

Federal intervention

Authority for action by the Federal Government is sought by resort to the 14th amendment to the Federal Constitution and, more recently, to the commerce clause of the Constitution. Already the Supreme Court, ignoring earlier decisions, has held that segregation of the races in the schools violates the 14th amendment, and that the schools must be integrated.

State action

The movement for civil rights is not confined to Federal action. Legislation by the States is likewise sought, and much progress has been made in this field.

So-called fair housing legislation

An example is the movement for so-called fair housing legislation by the States. This movement is countrywide. In general, this type of legislation prohibits discrimination because of race, color, religion, or national origin in the sale or rental of housing accommodations or land.

Enforcement of the legislation is placed in the hands of a Commission Against Discrimination, which is empowered to act on its own initiative or on complaint of an aggrieved individual or an organization chartered for the purpose of combating discrimination or racism, or of safeguarding civil liberties. Failure to obey a decree of the court entered to enforce an order of the Commission is punishable by fine or imprisonment, or both.

In Rhode Island the proponents of this legislation have sought unsuccessfully for 5 successive years to secure its passage. The drive for its enactment, however, still continues.

The opposition to this legislation, at least in Rhode Island, is based upon the right of private property and the right of an individual to choose his associates in connection with the enjoyment of his property—both of them basic rights in any free society.

It has been clearly demonstrated in Rhode Island that the purpose of this legislation is not better housing for the Negroes. The real purpose is to force integration in private housing—to compel people to live together whether they wish to or not.

There is abundant circumstantial evidence of this. In addition, I quote the following from a letter which I received in 1959 from one of the high officials in our State government:

"No decision has been made here at the State house as to what, if anything, we should do about fair housing. . . .

"A few days ago, I read an article in one of the old issues of the *Reader's Digest* that some private developers in Pennsylvania started a housing project which would be 50 percent white and 50 percent nonwhite. As a *business proposition*, the project was highly successful. No governmental funds were involved and there were no subsidies.

"Do you believe that we could interest a group in Rhode Island to take the initiative to establish such a project in Rhode Island? *In talking with the officials of the Urban League, they will resist any project that would be exclusively nonwhite. However, they would endorse, wholeheartedly, a project which would provide for proportionate representation.*" [Emphasis supplied.]

"It seems to me that unless something along this general line is done, you will not be able to quiet the agitation to accomplish nondiscrimination by law."

If an owner, regardless of his wishes, must under penalty of fine and imprisonment accept as a purchaser or tenant a person he does not want, he is not free. This is the one and only issue in the fair housing controversy in Rhode Island.

The opponents of this legislation are not against voluntary integration, but only against forced integration.

In Rhode Island the proponents of this legislation have steadfastly opposed any attempt to refer the question to the people by way of referendum, doubtless knowing that the people would overwhelmingly defeat it.

If the purpose is to improve race relations, it should be clear to anyone that this cannot be done by legislation which forces people to do something against their will. Rather it is a matter of education.

The fair housing riot in Rhode Island

To illustrate the extreme to which proponents of this fair housing legislation have gone in Rhode Island, I call attention to a wild demonstration in the house galleries and nearby corridors at our State house on the night of Wednesday, June 12, staged for the purpose of forcing the passage of a so-called fair housing bill. The demonstrators sang, played the banjo, clapped hands, and shouted, and created a scene of utter confusion that disrupted the session of the house of representatives and prevented it from conducting its business. Insulting epithets were hurled at representatives who had opposed such legislation and placards bearing defamatory statements about them were carried by the mob.

The demonstration was carefully planned and the crowd followed the signals given by their leaders. It is reported that some of the demonstrators were from outside the State.

On June 20, 1963, the committee for individual liberty (Rhode Island) published an advertisement in the Providence Journal dealing with this riot. A copy is attached hereto as appendix A.

What is behind this civil rights movement?

As one reads of the many race riots and demonstrations about the country and the bitter feeling that has been engendered between the races by this civil rights movement, one wonders whether there is not some sinister force behind it. Certainly, no one will contend that relations between the races have been or will be improved. On the contrary, the great progress in this area made over the years since the days of slavery is rapidly being destroyed to the manifest detriment of both races.

Furthermore, no informed person, I am sure, will deny that the economic and social status of the Negro has vastly improved during this period.

"The Negroes in a Soviet America"

In June 1935, the Workers Library Publishers (the Communist Party of the U.S.A.) published a pamphlet entitled, "The Negroes in a Soviet America."

In April 1945, the National Economic Council of New York had copies of this pamphlet printed and distributed with a statement entitled, "What's Back of Antidiscrimination Bills?" I quote from this statement the following:

"WHAT'S BACK OF ANTIDISCRIMINATION BILLS?"

"The past year or two a wave of propaganda has demanded the enactment by Congress and the several States of so-called antidiscrimination laws."

"The assumption of many persons is that these measures are a generous and timely effort that will bring contentment to all the people. But there is impressive evidence that they are, instead, merely one more attempt of the Communists to stir up trouble."

"Increasing numbers of Negroes are constantly attaining distinction in many fields. There is less reason now for antidiscrimination laws than there might have been 10, 20, or 30 years ago. The situation has been steadily improving in that slow but sure way which is the soundest way of all, but which apparently annoys the zealots and fanatics who wish to see any situation they think wrong righted overnight. And many good citizens, who have lacked opportunity, really to study the matter, are today being misled by these very fanatics, and by an alien-minded element with aims and purposes of its own."

"Most Americans regret the existence of any discrimination. True education, patience, and greater emphasis on the Christian quality of charity (that is, good will) will accelerate the improvement in race relations that has long been noted. But to resort to compulsion by legislation is not the remedy. That will set the clock back—and will probably do worse. The 18th amendment proved that."

"We submit herewith an offset copy of a pamphlet published in 1935 by the Workers Library Publishers (the Communist Party of the U.S.A.). A perusal of this suggests the likelihood that the antidiscrimination campaign for which many good people, including church organizations, have fallen, is of wholly alien origin.

"*'The Negroes in a Soviet America,'* as the reader will see, is a direct incitement by the Communists to bloody revolt against the white people of the United States, urging them to set up a Soviet form of government and affiliate with Soviet Russia. The foreword on page 2 urges social equality as a minimum desire of the Negro. On page 35 is the statement, 'The Negro people can find inspiration in the revolutionary attempts of Gabriel, Denmark Vesey, Nat Turner * * * ' etc.; and upon consulting volume XIV of Albert Bushnell Hart's *'History of the American Nation,'* it will be found that two at least of these Negroes were the leaders in Negro revolts in which scores of white men, women and children were mercilessly slaughtered.

"On page 38 is the statement that, 'Any act of discrimination or of prejudice against a Negro will become a crime under the revolutionary law.'

"The antidiscrimination bills carry out this idea precisely.

"James W. Ford, one of the authors of the pamphlet, has been several times the candidate of the Communist Party for vice president. James S. Allen, the other author, is the alias for Sol Auerbach whose activities were a matter of record before the Dies committee.

"This special offset edition of *'The Negroes in a Soviet America'* has been brought out in order that the people may form a true understanding of what is back of the present hullabaloo about race equality.

"April 1945.

"NATIONAL ECONOMIC COUNCIL, INC.

"New York, N.Y."

The following quotations from this pamphlet are especially illuminating:

"Segregation is the worst feature of the oppression of the Negro masses. It is in the best interests of these masses to wipe out segregation (p. 14).

"Under the leadership of the Communists, a mighty struggle for Negro rights is being waged in the South. The outstanding example of this is the *Scottsboro* case.

"In the North, largely as a result of Communist policy and agitation, larger and larger numbers of Negro workers are participating in the labor movement. There is a growing solidarity of white and Negro workers in the fight for unemployment insurance and relief and in the struggles of the trade unions (p. 16).

"But there also must be present a conscious organized group of workers, which realizes the necessity of revolution and which leads the masses in their daily struggles toward this end. This is the role of the Communist Party. Communists do not only talk about the future revolution, but are active fighters for the daily interests of the masses. In unions and other working class organizations, in strikes, in demonstrations, in elections, we Communists endeavor, while playing a leading part in the struggles of the masses, to convince them of the correct, revolutionary way out. And one of our principal lines of activity has always been to develop now the solidarity of the white workers and Negro masses, to build this alliance in our daily life and struggles, to assure the combination of the two aspects of the American revolution (p. 20).

"A Soviet Government must confer greater benefits upon the Negroes than upon the whites for the Negroes have started with less. This is the real test of equality. This is the only way that the basis for real equality can be established.

"Any act of discrimination or of prejudice against a Negro will become a crime under the revolutionary law. The basis of race prejudice and oppression will no longer exist because capitalism will no longer exist (p. 33).

"The horrors of segregated, overcrowded ghettos will disappear. All residential sections of the city will be open to the Negro. There will be no segre-

gated areas * * *. In fact, the living in close contact and the mixing of peoples of all nations and of all races will be encouraged, for this will hasten the destruction of all forms of separatism passed down as a heritage from capitalism, will tend to freely amalgamate all peoples.

"Thus, in a general way, we see the tremendous possibilities for the Negro in a Soviet America. No privileges for the whites which the Negroes do not at the same time have; full equal rights—this is the minimum to be expected from a Soviet America (pp. 88-89).

"As a result of the revolution the plantation masters and the capitalists will be overthrown. The formerly exploited classes of the population will come to power. These will be the workers, the former sharecroppers, small tenants, and small individual landowners. Because the Negroes are in a majority, especially of the exploited classes, the new governmental bodies will be predominantly composed of Negroes. The actual working out of real democracy in this territory—democracy for the majority of the people and not for the minority as under capitalism—will result in the Negroes playing the principal role in the new governmental authority" (p. 40).

A copy of this pamphlet, "The Negroes in a Soviet America," is filed herewith.

"Color, Communism, and Commonsense"

Some 6 or 7 years ago, Manning Johnson, an able and educated Negro, wrote a pamphlet entitled, "Color, Communism, and Commonsense," which has recently been reprinted by American Opinion, of Belmont, Mass.

Sometime before this Johnson joined the Communist Party, but becoming disillusioned, let the party and wrote this pamphlet, disclosing how the Communists are using the Negroes to further their own ends.

It is an excellent supplement to the above pamphlet, "The Negroes in a Soviet America," and merits careful reading. A copy is submitted with this statement.

I quote from this pamphlet the following passages:

"CHAPTER 3. RED PLOT TO USE NEGROES

"Stirring up race and class conflict is the basis of all discussion of the Communist Party's work in the South. * * * Black rebellion was what Moscow wanted. Bloody racial conflict would split America. * * * This plot to use the Negroes as the spearhead, or as expendables, was concocted by Stalin in 1928, nearly 10 years after the formation of the world organization of communism.

"During the three decades which have elapsed since the Sixth World Congress in Moscow, the American Communist Party has conducted many campaigns and formed and infiltrated a large number of organizations among Negroes. From the bloody gun battles at Camp Hill, Ala. (1931), to the present integration madness, the heavy hand of communism has moved, stirring up racial strife, creating confusion, hate, and bitterness so essential to the advancement of the Red cause.

"White leftists descended on Negro communities like locusts, posing as friends come to help liberate their black brothers. Along with these white Communist missionaries came the Negro political Uncle Toms to allay the Negro's distrust and fears of these strangers. Everything was interracial, and interracialism artificially created, cleverly devised as a camouflage of the Red plot to use the Negro.

"CHAPTER 4. BANE OF RED INTEGRATION

Many Negro intellectuals, artists, professionals, etc., were carried away with this outburst of interracialism. Here was an opportunity to be accepted by the other racial group. Secretly, they had always wanted to get away from the other Negroes. Moving around among whites would somehow add to their stature and endow a feeling of importance. So they went after Communist interracialism like a hog going after slop.

"There are numerous examples of the harmful and deadening effect of Communist interracialism (integration) on any proposal for constructive Negro projects. Of these examples, I will cite only a few.

"Second, a well-known Negro real estate man called together a group of prominent Negro intellectuals and professionals for the purpose of launching a Negro housing development through the purchase of land and home construction. Such a project, he argued, would go a long way in showing other races that Negroes can build ideal communities and maintain standards second to none. He had maps showing fine locations that even from a land-purchase angle proved that it was a good investment. But he couldn't get to first base. Why? Because they were against setting up Negro communities, that is, segregating ourselves. 'They,' he said, 'were all for integration in white communities.'

"The Communists try to exploit these national, racial, and religious differences in order to weaken, undermine, and subjugate America to Moscow. Like a serpent, they use guile to seduce each group. At no time have the Communists even hinted or suggested to any group, other than the Negro, that their clannishness or tendency to colonize a given area creates a 'ghetto' or 'quarters.' Were they to do so they would be jeered out of each section as crackpots.

"Evidently the Reds had international propaganda in mind when they described Negro sections as 'ghettos' because the definition of the word 'ghetto' in no way applies to a Negro section any more than it does to a German, Irish, Jewish, Chinese, or any other section in America.

"The Encyclopedia Britannica states:

"Ghetto, formerly the street or quarter of a city in which Jews were compelled to live, enclosed by walls and gates which were locked each night. The term is now used loosely of any locality in a city or country where Jews congregate.

"During the Middle Ages the Jews were forbidden to leave the ghetto after sunset when the gates were locked, and they were also imprisoned on Sundays and all Christian holy days."

"Negroes band together in sections like other races and national groups much for the same reasons. Like other racial and national groups, they can buy land, build communities, settle in any section of the country. Like other racial and national groups, they can make their sections as nice and attractive as possible. The maximum business, cultural, sanitary and social services are within their reach as with other groups.

"The Communists, through propaganda, have sold a number of Negro intellectuals the idea that the Negro section is a ghetto; that white Americans created it, set its geographical boundaries; that it is the product of race hate and the inhumanity of white Americans. Therefore, it is a struggle of Negro against 'white oppressors' for emancipation.

"Naturally, those holding such views have no community pride, no interest in doing anything to improve its services because that would be aiding and abetting segregation and maintenance of the ghetto.

"Moreover, they oppose any race project inside or outside the Negro section for the same reason. *Everything has to be integrated or it is taboo.* In this way, they paralyze Negro initiative and resourcefulness, casting the race in the mold of one that is incapable of producing anything for the advancement of society. At the same time, it creates the impression among other racial groups that the Negro waits for them to prepare the banquet so that he can step in and enjoy it. (Italic supplied.)

"Obviously, this line, deliberately spread by the Communists, leads to the worst kind of mischief. It strengthens and creates racial prejudices and lays the basis for sharp racial conflicts. Shirking social responsibility and blaming others may be the easy way, but it is only a short cut to Communist slavery.

"CHAPTER 8. MODERN DAY CARPETBAGGERS

"At the root of all the present racial trouble is interference in the internal affairs of Southern States by people not at all interested in amicable settlement of any problems arising between Negro and white Americans.

"This interference comes from organizations and individuals in the North seeking to use the Negro. Among them are found Communists, crypto-Communists, fuzzy-headed liberals, eggheads, pacifists, idealists, civil disobedience advocates, socialists, do-gooders, conniving politicians, self-seekers, muddle-headed humanitarians, addle-brained intellectuals, crackpots, and plain meddlers. Like 'missionaries,' they descend on the South ostensibly to change or alter it to benefit the Negro.

"In fact and in implication, all of them seek to bypass the responsible white and Negro leaders in the South to effect a solution. They employ a pattern of setting up provocative situations which inflame and agitate the white populace and then using it as propaganda here and abroad against the South in particular and all of America in general.

"White southerners who oppose these 'missionaries' are pounced upon and labeled, 'race baiters,' 'reactionaries,' 'Ku Kluxers,' 'white supremacists,' 'persons outside the law,' and so forth.

"Negro southerners who oppose these 'missionaries' are also attacked and labeled 'Uncle Toms,' 'traitors of the race,' 'handkerchief heads,' 'white folks niggers,' and so forth.

"Obviously such name calling is a deliberate attempt on the part of these 'missionaries' to scuttle all the progress made by the Negro since slavery by creating an atmosphere of distrust, fear, and hate. Like a witch stirring her brew the 'missionaries' stir up all the sectional and racial bitterness that arose in the wake of the Civil War and Reconstruction.

"The media of public information is far from free of Communists and fellow travelers who operate under the guise of liberalism. They are ready at all times to do an effective smear job. Among these Red tools may be found editorial writers, columnists, news commentators and analysts, in the press, radio, and television. They go overboard in giving top news coverage to racial incidents, fomented by the leftists, and also those incidents that are interpreted so as to show 'biased' attitudes of whites against Negroes. This is a propaganda hoax aimed, not at helping the Negro, but at casting America in a bad light in order to destroy its prestige and influence abroad, thereby aiding Soviet Russia in the penetration and conquest of Asia and Africa.

"In the meantime, the Negro is the sacrificial lamb—the innocent victim of the widespread racial hate which the leftists are creating. The energizing of race hate is an asset to the Red cause. The more, the merrier, so long as it erupts in cross burnings, threats, loss of jobs, refusal of loans, boycotts, bombings, fist fights, beatings, and shootings.

"Thus all racial progress based upon understanding, goodwill, friendship, and mutual cooperation, built up painfully over the years is wiped out. White Americans are set against Negro Americans and vice versa. The stage is thus set for the opening of a dark and bloody era in Negro and white relations.

"Many white northern politicians objectively aid the rapidly deteriorating racial situation through the exploitation of leftist propaganda to garner Negro votes. They care not a tinker's damn about the southern Negro and simply flatter the northern Negro whom they consider a gullible fool. Getting elected and re-elected is their only concern.

"Significantly, among all the aforementioned groups and individuals, there is only one highly organized, trained and disciplined force, and that is the Communists. So they are able to use, manipulate, and combine this weird assortment of leftist 'missionaries' in one way or another to bring about 'a social upheaval which will plow up southern institutions to their roots.'

"Indeed the spectre of the 'modern carpetbagger' haunts the South. Reds, NAACP'ers, do-gooders and other 'missionaries' follow in the footsteps of those northerners who for narrow, selfish, personal, or political reasons meddled in the affairs of the South in the period immediately following the Civil War. Like their predecessors, these modern-day carpetbaggers create only mischief, for they have no true interest in the South.

"A check of the record of these modern-day carpetbaggers will show that most of them are either Communists or persons who have been, or are now, associated with the Communist cause as a frontier, endorser, or fellow traveler.

"Under the circumstances, it becomes the bounden duty of every Government agency, in the interest of internal security, to reveal to the American people the record of each individual, regardless of race, creed, religion, position or rank, who is involved in inciting white and Negro Americans against each other.

"Naturally, the opponents of the publication of such information are going to scream louder than 10,000 pigs caught under a fence. Charges of anti-Negro, anti-democratic bias will fill the air. 'Old man smear' will have a field day. In this way, as in the past, any real investigation of communism or procommunism among Negroes is headed off, defeated, or driven into a blind alley. Color and race thus becomes a sanctuary. On the one hand, patriotic and honest politicians

and officials do not dare invade it critically without dire consequences to their personal reputations. On the other hand, this same 'sanctuary' becomes the playground, not only of the Reds, but of hypocrites, demagogues, bigots, self-seekers, opportunists, conniving politicians, and other dregs of human society.

"Too few Americans in our day have had the courage of their convictions. Too few will fly in the face of leftist opposition. Too few will stand up for truth in the face of the ominous and destructive storm of 'me-toolism' or the Communist ideological regimentation that hangs like a pall over our country. Many take the attitude that it is better to be safe than sorry or conclude, after a little difficulty or several reverses, that 'if you can't beat 'em, join 'em.' The words 'God, country and posterity' have lost much of their substance and are becoming only a shadow in the hearts and minds of many Americans.

"Great Negro Americans such as Hooker T. Washington and George Washington Carver should serve both as an inspiration and a reminder to the present and successive generations of Negro Americans that they too 'can make their lives sublime and in departing leave behind them footprints in the sands of time.'"

"CHAPTER 9. RACE PRIDE IS PASSÉ

"The disastrous effect of 'Integration,' so ardently advocated by the Reds and the NAACP is evident in the following article:

"*Negro businessmen disturbed*"

"Negro businessmen, such as hotel owners, tavern operators and sellers of cooked food, are up in the air in some cities because Negro money is bypassing their cash registers and falling into the pockets of white proprietors who run choice spots in downtown areas.

"This is especially true in the convention cities of Detroit and Miami. Detroit businessmen on the Negro side raised quite a howl a few months back when an all-Negro female conclave hit town, and none of the delegates as much as looked through the doors of Negro-operated businesses. They slept in white-owned hotels, convened in white convention rooms, ate in white dining rooms, drank at white bars, and danced in white ballrooms.

"Owners and operators of Negro businesses in Miami, Fla., were quite angry last year after the African Methodist Episcopal Church general conference packed up and got out of town. They claimed AME delegates, and there were hundreds of them, spent their money with white hotels on Miami Beach and even took their meals in Miami Beach restaurants. Negro taxicab drivers were pretty hot, too.

"Not too far back, Negro cab drivers chased a white cab driver out of Miami's Negro area because he was riding a Negro passenger.

"Somebody down in Miami must have talked to officials of the Church of God in Christ before they held their international youth conference there last week, because the conference was held in a Negro church, delegates lived in Negro hotels, ate in colored dining rooms, and held their banquets in big rooms made available by Negro hotels. They even held an open-air festival at the all-Negro Virginia Beach just out of Miami."

"Betrayal of the Negro people may well come through Communist corruption of the Negro intellectual. This is not so difficult, since the Communists, the 'white liberals' and the 'white progressives' do the thinking for most of them."

Further excerpts from this pamphlet are attached hereto as appendix B.

"*More Equal Than Equal*"

The Dan Simbot report for July 15, 1963, contains an article, bearing the title "More Equal Than Equal," which contains a copy of the civil rights platform announced by the Communist Party in 1928, when Communists formally launched their program to create social disorder in the United States by agitating the racial situation."

"Among the planks in the platform are the following:

"1. Abolition of the whole system of race discrimination. Full racial, political, and social equality for the Negro race.

"2. Abolition of all laws which result in segregation of Negroes. Abolition of all Jim Crow laws. The law shall forbid all discrimination against Negroes in selling or renting houses.

"5. Abolition of all laws and public administration measures which prohibit, or in practice prevent, Negro children or youth from attending general public schools or universities.

"6. Full and equal admittance of Negroes to all railway station waiting rooms, restaurants, hotels, and theaters.

"11. Immediate removal of all restrictions in all trade unions against the membership of Negro workers.

"12. Equal opportunity for employment * * *."

Statement by J. Edgar Hoover

In his book, "Masters of Deceit," J. Edgar Hoover says (p. 83):

"A tragedy of the past generation in the United States is that so many persons, including high-ranking statesmen, public officials, educators, ministers of the gospel, professional men, have been duped into helping communism. Communist leaders have proclaimed that communism must be partly built with non-Communist hands, and this, to a large extent, is true."

Statement by Georgi Dimitrov

Georgi Dimitrov gave the following advice to the Lenin School of Political Warfare:

"As Soviet power grows, there will be a greater aversion to Communist parties everywhere. So we must practice the techniques of withdrawal. Never appear in the foreground; let our friends do the work. We must always remember that one sympathizer is generally worth more than a dozen militant Communists. A university professor, who without being a party member lends himself to the interests of the Soviet Union, is worth more than a hundred men with party cards. A writer of reputation, or a retired general, are worth more than 500 poor devils who don't know any better than to get themselves beaten up by the police. Every man has his value, his merit. The writer who, without being a party member, defends the Soviet Union, the union leader who is outside our ranks but defends Soviet international policy, is worth more than a thousand party members."

Purpose of foregoing presentation

The foregoing material is submitted by me in the belief that it constitutes convincing evidence that there is a sinister force behind this entire civil rights movement, and that the movement has done and will do more harm than good. This is not to suggest that there are not many well-intentioned and sincere persons who are supporting the movement in the belief that it is purely an attempt to right the wrongs of an oppressed people and that it will accomplish this objective.

Civil rights movement impinges on basic rights

It must not be overlooked, however, that regardless of the origin of and motive force behind the movement, it does seriously impinge upon rights which have hitherto been regarded as essential to liberty, (1) the right of private property, and (2) the right to choose one's own associates in connection with its enjoyment.

Loss of freedom

For some years we have seen the rights of the individual in this country being steadily whittled away and the powers of government increased. Unless this trend is promptly checked, the inevitable outcome will be the abolition of the right of private property, loss of the people's liberty, and the establishment of a fully socialized state with its despotic government.

What an end this would be to the greatest experiment in individual liberty ever tried by man!

Seven and a half centuries ago, the barons at Runnymede wrung from King John the Magna Carta, regarded as the beginning of individual liberty among the English-speaking people. During the centuries following, a continual struggle was waged to free the individual from the domination of the state and make the people, not the government, the master.

Our Declaration of Independence was a demand for less governmental interference in the lives of the citizens, and the Revolutionary War was fought for the purpose of enforcing this demand.

But now in the last several decades we have witnessed the amazing and distressing spectacle of a trend back toward autocratic government advocated and promoted by persons who call themselves liberals and who denounce their opponents as reactionaries. Had anyone prior to this recent period suggested that King John was a liberal and that the barons at Runnymede and those who have since carried on the struggle to limit the power of the state were reactionaries, he would have been regarded as a fit subject for an insane asylum. How easily are the people fooled by mere titles!

Socialism has never worked. It will ruin any nation that adopts it.

Freedom, the antithesis of socialism, has been well defined as "the right of the individual to work out his destiny, with whatever capacities he possesses, without interference from government beyond that necessary to prevent him from interfering with the freedom of others." (The Freeman, September 1954.)

"Americans will not vote themselves out of freedom with their eyes open. But with their eyes half open they can be fooled and bit by bit the right of private ownership can be pulled gently away from them." (Dr. George S. Benson, president of Harding College.)

Human rights versus property rights

The proponents of civil rights legislation are wont to justify their action on the ground that human rights are more sacred than property rights, despite the absurdity of the distinction. Property itself has neither rights nor value, save only as human interests are involved. There are no rights but human rights and what are spoken of as property rights are only the human rights of individuals to property.

"The ownership of property is the right for which, above all others, the common man has struggled in his slow ascent from serfdom.

"A man without property rights, without the right to the product of his own labor, is not a freeman. He can exist only through the generosity or forbearance of others." (Essay by Paul L. Polrot of the Foundation for Economic Education.)

A man on a desert island stripped of all property, including housing, food, clothing, etc., has all the so-called human rights, such as freedom of speech, freedom of religion, etc.; but what a plight he is in.

Legality of Federal action

And finally it must be conceded that the legality of Federal action is highly questionable, either under the 14th amendment or the Commerce Clause.

Unfortunately, during the past 25 years, the Supreme Court has taken upon itself the task of rewriting, by judicial interpretation, important provisions of the Constitution in disregard of the express provisions of that instrument for its amendment. The changes in the Constitution made by the Court during this period have been referred to as "The New Deal Constitutional Revolution."

If the Court is to follow the practice of interpreting the Constitution to mean what it wishes, despite the plain meaning of the language used, the protection afforded by the Constitution is rendered of little value.

Over 40 years ago, Raleigh O. Minor, professor of constitutional law at the University of Virginia, wrote on this subject as follows:

"The writer shall be happy, whatever may be the reader's views of constitutional interpretation, if he shall have impressed upon the latter the jealous caution that should be exercised in enlarging the Federal powers and the necessity of preserving immaculate and untarnished the reserved powers of the States as he sees them.

"Let him beware of the extension of Federal powers by construction, judicial, legislative, or executive, merely because of the argument from convenience or from the inefficiency of the State governments or of State regulation. Nothing is more insidious, nothing more dangerous.

"If a power is one reserved by the States and, after long and patient trial and experiment, the States prove incompetent to exercise it properly, and it is essential that it be so exercised, then let the power be transferred to the Federal Government by amendment to the Constitution. If the necessity is not great enough and evident enough to induce the legislatures of three-fourths of the States to assent to the transfer, it may be fairly assumed that the transfer is not so essential after all.

"But in any event let it not be accomplished by a forced construction of the Constitution. This is even now the canker that is slowly but surely eating

away the reserved rights of the States and sapping their powers. If the process be not checked, the time must certainly come when the sovereign States will be nothing more than mere municipal corporations with only such powers left them as the Federal Government may choose to allow.

"God save the fair fabric of the Constitution from such a fate!"

The extension of Federal power through an expanded and unwarranted interpretation of the Constitution has been particularly manifested in the case of (1) the Commerce Clause and (2) the 14th amendment.

It is high time that attention be given to curbing by an appropriate constitutional amendment the unbridled power of the Supreme Court, so that no longer will it be possible for a majority of nine men to determine arbitrarily, without any reasonable constitutional justification, and in utter disregard of earlier decisions, issues of the most vital importance to the people of the country.

Congress should not, I submit, by passing legislation of doubtful validity, tempt the Court to travel further down the road of expanded and tortured interpretation of the Constitution.

CONCLUSION

We are losing the cold war and the Communist noose about us continues to tighten. Already the Communists control eastern Europe, a large part of Asia, part of Africa, and even a part of the Western Hemisphere, and their control is being steadily extended. Their objective of conquering the entire world, including the United States, is likely to be achieved unless the trend is changed.

In the circumstances, it has never been more important than now that the American people stand together, that internal strife be ended and that the people close ranks and together fight the battle for survival against communism.

That the bitter feeling and strife engendered by this civil rights movement aids the Communist cause can hardly be denied. And if, as the evidence seems overwhelmingly to indicate, the movement was inspired by the Communists, it would seem that the sooner it is abandoned, the better. Surely, the Democrat and Republican Parties should not knowingly lend their aid to furthering the ends of the country's worst enemy, the Communists.

This conclusion is further strengthened by the very questionable validity of the proposed legislation.

Let me add that my position is not due to any dislike of or prejudice against the Negroes, but to the fact that I am convinced that it is in the interest of the people of the country, both whites and Negroes, that this legislation should not be enacted.

APPENDIX A

"THE FAIR HOUSING RIOT"

"On the night of Wednesday, June 12, in an effort to force the passage of a so-called fair housing bill, the advocates staged a wild demonstration in the house galleries and nearby corridors at the State House that was without precedent in the annals of the general assembly. They sang, played the banjo, clapped hands, and shouted, and created a scene of utter confusion that disrupted the session of the house of representatives and prevented it from conducting its business. Insulting epithets were hurled at representatives who had opposed such legislation and placards bearing defamatory statements about them were carried by the mob.

"The demonstration was carefully planned and the crowd followed the signals given by their leaders. It is reported that some of the demonstrators were from outside the State.

"Demonstration started Tuesday night

"The demonstration started the preceding night when the crowd took possession of the west gallery of the house of representatives and were personally welcomed by Governor Chafee. According to the Providence Journal, the Governor made his way to the crowded gallery for a round of handshakes and was applauded by the demonstrators with a standing ovation.

"During both nights, Tuesday and Wednesday, no effort was made to curb the riot.

"Purpose of demonstration

"The demonstration was for the purpose of intimidating the members of the house and bulldozing them into passing legislation to which the great majority of the members and of the people of the State are opposed.

"Fortunately, a large majority of the house members refused to be intimidated into signing the petition needed to force the bill out of the house committee to which it had been referred.

"People indebted to courageous representatives

"To these men the people of the State are tremendously indebted for their courageous action. They should know that while a small, but vociferous, minority favor this legislation, the great mass of the people are against it. They are people who in general are not accustomed to engaging in public controversies, but who would overwhelmingly defeat such a bill if it should be submitted to the people on a referendum—a course which the advocates of the legislation bitterly oppose.

"Honor roll

"These members of the house, 74 in number, should be placed on the roll of honor, and not the 26 awarded that badge of distinction by the Providence Journal.

"Question posed by riot

"And thus has been concluded one of the most disgraceful episodes in Rhode Island legislative history.

"It poses the question of whether in this State mob rule is to be substituted for law and order, and the enactment of legislation determined by the mob rather than by the duly elected and "uncoerced" members of our general assembly.

"Journal deplors riot

"The Journal in its editorial columns deplors the demonstration.

"But what could the Journal expect? For 5 years it has filled its pages with articles, editorials, and letters telling the Negroes in this State that they are being shamefully treated, that they are being discriminated against in the matter of housing, and that the passage of a fair housing bill would assure them better housing; and week after week similar views have been expressed in many of the pulpits of the State. And to cap the climax, the rioters were welcomed at the statehouse by the Governor, the chief executive officer of the State.

"Is it surprising that the riot took place?

"THE FAIR HOUSING CONTROVERSY"

"Merits of controversy

"What are the merits of this controversy?

"At the outset, it is granted that most Negroes are not as well housed as most white people. We deplore this fact and wish that they could have better housing. However, the reason by and large for this condition is not discrimination but an economic one. Except in a few cases, the sort of housing a person, whether colored or white, can obtain depends primarily upon what he can afford to pay.

"Lippitt Hill project

"Lippitt Hill is a fair example. Although open to both Negroes and whites, it is safe to say that the high rents, ranging from \$75 and \$80 a month for efficiency and one-bedroom apartments to \$195 a month for three-bedroom apartments, will bar all of the Negroes who used to live on Lippitt Hill where the rents formerly averaged \$35 a month.

"It seems to us most unfortunate that the inhabitants of Lippitt Hill should have been driven from their homes without making certain that new accommodations on Lippitt Hill were provided at rents they could afford to pay. Can any reasonable person contend that the Lippitt Hill project is the way to improve the lot of the Negro?

"Solution

"Instead of raising a hue and cry about discrimination, why don't the backers of fair housing legislation get busy and start a housing development or developments that would provide the better housing accommodations for Negroes that every good citizen desires, and which is the only way in which such accommodations can be provided?

"Fair housing legislation will not provide the better housing that the Negroes as a whole expect and it is wrong to lead them to believe that it will.

"On the other hand, it will deprive an owner of real estate of (1) the right to enjoy the benefits of property ownership and (2) the right to choose for himself the persons with whom he associates in connection with his own property—both of them basic rights in any free society.

"Real issue in controversy"

"If an owner, regardless of his wishes, must under penalty of fine and imprisonment accept as a purchaser or tenant a person he does not want, he is not free. This is the one and only issue in the fair housing controversy."

"Better housing is not the purpose of this legislation. The real purpose is to force integration in private housing; that is, to compel people to live together whether they wish to or not."

"We are not against voluntary integration; our opposition is solely to forced integration."

"It should further be noted that in enforcing the provisions of a fair housing law, the owner's reason for refusing to rent or sell is the reason determined by the State committee against discrimination, which may not be the owner's real reason at all."

"Moreover, while it has been made to appear by the advocates of this legislation that it applies only to Negroes, that is not the fact. The legislation applies to all races—and they are forbidden to discriminate against one another under penalty of fine or imprisonment."

"Personal note"

"In closing, we wish to inject a personal note. The opponents of this legislation are often attacked as anti-Negro. This, at least in the case of our committee, is utterly false and we bitterly resent it. Neither race, creed, nor color affects in the slightest degree the respect and regard in which we hold an individual. We are proud to count many Negroes among our good friends."

COMMITTEE FOR INDIVIDUAL LIBERTY,
ROBERT B. DRESSLER, *Chairman*.

PROVIDENCE, R.I., June 17, 1963.

APPENDIX B

Further excerpts from the pamphlet, "Color, Communism, and Commonsense," by Manning Johnson:

"CHAPTER 7. CREATING HATE

"The Red propagandists distort the facts concerning racial differences for ulterior motives. * * *

"Moscow's Negro tools in the incitement of racial warfare place all the ills of the Negro at the door of the white leaders of America. Capitalism and imperialism are made symbols of oppressive white rule in keeping with instructions from the Kremlin."

"To one familiar with Red trickery, it is obvious that placing the blame for all the Negroes' ills at the door of the white leaders in America is to remove all responsibility from the Negro. This tends to make the Negro—

"(a) Feel sorry for himself;

"(b) Blame others for his failures;

"(c) Ignore the countless opportunities around him;

"(d) Jealous of the progress of other racial and national groups;

"(e) Expect the white man to do everything for him; and

"(f) Look for easy and quick solutions as a substitute for the harsh realities of competitive struggle to get ahead."

"The result is a persecution complex—a warped belief that the white man's prejudices, the white man's system, the white man's government is responsible for everything. Such a belief is the way the Reds plan it, for the next logical step is hate that can be used by the Reds to accomplish their ends."

"The fact that the Reds have never contributed anything tangible to the progress of the Negro is overlooked though the Reds have collected millions of dollars as a result of race incitement."

"The NAAACP set up the situation that erupted into racial violence at Little Rock, Ark. Reds all over the world dramatized the racial incidents created in Little Rock as examples of how white Americans resort to extremes of racial violence to deny Negroes an education. Every Communist Party in Asia and Africa, it seems, was alerted to do a job on America. At the same time here at home, they were screaming about the damage to our prestige abroad. Any way you look at it, it is a two-way pincer movement against Uncle Sam."

"Any confusion or misunderstanding created abroad has not been cleared up by the NAACP leadership. At no time have they admitted that no Negro in the United States is denied an education. And, too, they have not admitted that not every Negro wants an education, for reasons better known to himself. That accounts for many Negroes not being able to read or write. Moreover, there are free schools open both day and night for all those who want an education.

"One can very well question the sincerity of the Reds and the NAACP when they try to create the impression that America in general and the South in particular is a hell hole of despotism where the Negro is concerned. This is so since the whole issue boils down to taking Negro children out of one school and transferring them to another so that they can be seated with white children on the assumption that only in this way will the Negro child get an education.

"It is also implied that a Negro child is handicapped in his studies unless he is sitting beside a white child. What could be more nonsensical or ridiculous? It is a sad commentary on the ability of the Negro child to say that he cannot properly study or that he will develop harmful complexes if he does not sit beside a white child. By what quirk of reasoning does one conclude that sitting beside a white child will help a Negro child make the grade? Experience shows that a student's success is determined by how much attention, time, and effort he is willing to put into his studies.

"In New York, for example, many Negro junior high and high school graduates are outrageously poor in spelling, writing, reading, and mathematics. Yet they attended integrated schools.

"Even the report of the Public Education Association in 1955 admitted that southern Negro children moving to New York City are on a level two grades higher than those in New York City schools.

"What is also important to remember is that the late Dr. George W. Carver, the outstanding Negro scientist, was born of slave parentage. He did not learn to read and write until he was 20. He worked his way through school to become one of the world's greatest scientists. He didn't have the opportunities of young Negroes today. Every difficulty was a challenge, so he had no time to develop complexes.

"The main danger and handicap to the Negro is not the southern school, but the persecution and hate complex the NAACP and the Reds are trying to create."

STATEMENT OF ANDREW FOWLER, DIRECTOR, WASHINGTON BUREAU, NATIONAL FRATERNAL COUNCIL OF CHURCHES, U.S.A., INC.

Mr. Chairman and members of the committee, the National Fraternal Council of Churches, representing more than 8 million members, has worked incessantly for about 30 years in the interest of civil rights. The great majority of the millions of people who belong to the Fraternal Council of Churches have ridden across certain sections of this Nation, thirsty, but could not drink water; hungry, but could not eat; tired, but could not sleep. We long for the day when this perpetrated evil will be brought to an end. We, therefore, urge this committee to report the President's bill as a minimum in this area of rights for mankind.

STATEMENT OF THE FRIENDS COMMITTEE ON NATIONAL LEGISLATION

EXPERIENCE OF FRIENDS IN RACE RELATIONS

Friends have been long concerned with the plight of minorities, and in the United States this concern has expressed itself in work by all Friends yearly meetings directed toward alleviating the conditions of one or more of the following groups: Indians, Negroes, Jews, Japanese-American, migrants, and others. However, at the outset it should be stated that no official body can speak on behalf of the Society of Friends, and that cherishing the free conscience I can only represent likeminded Quakers. The Friends Committee on National Legislation acts on the basis of a statement of policy adopted by representatives of 20 of the 28 Friends yearly meetings and from 10 other Friends organizations. At a

July 24, 1963, meeting at Richmond, Ind., the Five Years Meeting of Friends, the largest inclusive organization of Friends in the United States, adopted a minute giving unqualified support to the three faith joint testimony presented to your committee on July 23; a copy of this minute is appended.

Quakers feel that they can speak from some experience regarding problems arising from racial discrimination. Your attention should be called to the fact that slavery was abolished many years before the Civil War among Friends; absence of slavery among Friends, however, did not improve the lot of many slaves. I feel that the badge of servitude involved in present discrimination practiced in public places should be abolished by appropriate legislation, and I feel the U.S. Constitution has a good number of provisions which would support such legislation.

THE RECORD OF DISCRIMINATION IN PUBLIC ACCOMMODATIONS

Testimony in the hearings before the Senate Committee on Commerce demonstrate the persistence of large-scale discrimination in public accommodations in spite of court decisions and the laws of 30 States and the executive orders in two others. It should be only noted that these discriminations by both private and public institutions handicap all people. Not only do they prevent the free movement of racial minorities from State to State, but they often inhibit and prevent the free social communications among people of different races who are without prejudice. Not only are these segregated practices poor business, but they induce unwelcome social practices and attitudes. My hope is that Congress will adopt legislative language which will insure that all business open to the public will genuinely serve the public regardless of race.

THE RIGHT OF PRIVACY

I call your special attention to section 3(a)(8) of S. 1732 which places a substantial test involving the Commerce Clause for retail shops, department stores, drugstores, markets, gasoline stations, and a variety of eating places. This test as well as the dollar value alternative promises to support the continued segregation of those businesses which racial minorities are likely to be able to afford to patronize. The poor as well as the rich get hungry, and their access to public facilities should not be limited by their capacity to purchase in large businesses. I feel that neither the legal nor the commercial test is appropriate to guaranteeing the privileges and immunities promised to citizens under article IV and amendment 14 of the Constitution of the United States.

On the other hand, I do feel that the right to privacy should be recognized in this legislation. Small rooming houses with resident owners should not be covered by a public accommodations statute. The law cannot abolish prejudice, and it should uphold the rights of those who have deep personal feelings in this matter and who would not like to share their homes with renters from some social or racial group they dislike. I feel that this test would really only exclude the very small public accommodations, and that minorities would no longer be handicapped any more than others in their business and travel.

COMMUNITY RELATIONS SERVICE

Our 1963 statement of policy looks forward to a society where human beings are accepted on their merits and not discriminated against because of race, color, or creed. . . . However, approaching these problems from religious standpoint, we know that education, persuasion, and individual example must undergird social progress. In this regard we wish to express support for the proposed Community Relations Service which we find to be missing in this bill. We think that the provisions of section 5 would be greatly improved by such an addition, especially if such a Service could work in close relation to the Civil Rights Commission. However, we feel that Senator Dirksen's substitute for S. 1732 is really not adequate to the situation in that it only expresses the moral concern of Congress. Congress through legislation can broaden the concept of citizen rights, and by defining these rights of full public access it can assure a more rapid progress toward the kind of community that we all desire.

Appendix: "Minute of the Five Years Meeting of Friends," July 24, 1903, Richmond, Ind.:

THE FIVE YEARS MEETING OF FRIENDS,
Richmond, Ind., July 24, 1903.

THE CONGRESS OF THE UNITED STATES,
Washington, D.C.

GENTLEMEN: The Five Years Meeting of Friends hereby associates itself with the testimony for the National Council of Churches, the National Catholic Welfare Conference, and the Synagogue Council of America, to be presented to Congress in their behalf.

We support the objectives of this testimony, since we recognize that this critical moral issue must be met by effective concrete action now.

We wish, however, to register our uneasiness about the broad extension of Federal action. This is not because we disapprove its use in this critical situation, but because this may set a precedent, which if not carefully watched could lead to undue extension of Federal authority and centralization of power on other issues.

On behalf of The Five Years Meeting of Friends,

SAMUEL R. LEVERING,
Chairman of the Board, Christian Social Concerns
(For S. Arthur Watson, Clerk).

BROCHURE ON THE 14TH AMENDMENT SUBMITTED BY E. M. FRYE, NEW SMYRNA BEACH, FLA.

INTRODUCTION

In the present controversy over segregation, those who oppose the separation of races claim that segregation in any form is in violation of the 14th amendment. These claims are baseless and unfounded, for the 14th amendment is unconstitutional and the present day loose interpretations of it are at variance with the word and intent of the so-called amendment. A short résumé of the events will show that the methods employed in the adoption of the Constitution and the first 13 amendments contrast sharply with those used in the adoption of the 14th amendment, which amendment became the accepted law of the land by proclamation of the Secretary of State and the concurrent resolution of Congress, but not by provisions of the Constitution.

Several attempts at closer union between the colonists had occurred during the colonial era. The first attempts of any magnitude was the Articles of Confederation, which failed to provide the strong cohesive force necessary for a strong national unity. The Government under the articles had lost its prestige and the colonies or States were drifting apart.

The difference of opinion in the colonies over trade led to a convention in Philadelphia in May of 1787 to revise the Articles of Confederation. Instead of revising them as instructed, a new Constitution was secretly written. The work of the 55 delegates was completed on September 17; Madison, King, and Gorham, Members of Congress under the articles, set out at once for the Congress in New York, where the newly written Constitution was placed before the different States for action on September 28, 1787.

On December 7, 1787, Delaware was the first State to ratify the new Constitution and New Hampshire was the ninth State to ratify on June 21, 1788. The new Constitution was the law of the land in the first nine ratifying States. Four States were yet to ratify, Virginia, North Carolina, New York, and Rhode Island. Rhode Island was the last State to ratify the new Constitution on May 20, 1790. It is not without interest that Rhode Island and Virginia reserved the right to withdraw from the Union under the Constitution when either so desired.

Several States ratified the new Constitution with the understanding that certain amendments would become a part of the Constitution. Twelve amendments were submitted to the States for ratification or rejection; 2 were rejected and 10 of them became a part of the Constitution on December 15, 1791; 3 States, Georgia, Massachusetts, and Connecticut, failed to ratify these amendments. Since Kentucky was a territory and not admitted into the Union until June 1, 1792, her territorial legislature was not offered these amendments for ratification.

Thirteen States ratified the 11th amendment. Pennsylvania and New Jersey rejected this amendment. Since Tennessee was a territory and was not admitted to statehood until June 1, 1796, she did not act on this amendment. When the 12th amendment was submitted for ratification and adoption on June 15, 1804, 17 States were in the Union; 14 States ratified this amendment and 3 rejected it.

Between the adoption of the 12th amendment on June 15, 1804, and the adoption of the 13th amendment on December 18, 1865, 61 years and a civil war had intervened; 34 of the 36 States ratified the 13th amendment over a period of 36 years, including Virginia, Arkansas, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, and Texas; Kentucky and Mississippi were the only States to reject it.

From the ratification of the 1st amendment to the Constitution by the first State, New Jersey, on November 29, 1789, to the adoption of the 13th amendment as announced by the Secretary of State, Seward, on December 18, 1865, the sovereign right of a State to reject an amendment was never questioned in court on in Congress or by the American people. The first 13 amendments to the Constitution were rejected by only 11 States. History does not record that these States were in any manner disciplined for their rejection of these amendments.

In view of the fact that territorial legislatures or legislative bodies of conquered provinces never voted on amendments to the Constitution and legislatures of States in the Union only voted, then the obvious conclusion is that Virginia, North Carolina, South Carolina, Georgia, Alabama, Texas, Tennessee, Louisiana, and Arkansas, and the States of the old southern Confederacy, were members of the Union when the 13th amendment was declared ratified by the Secretary of State and accepted by the Congress. On February 1, 1865, Congress passed the following resolution, to wit:

"A resolution submitting to the legislatures of the several States a proposition to amend the Constitution of the United States.

"Resolved by the Senate and House of Representatives of the United States assembled (two-thirds of both Houses concurring), That the following article be proposed to the several legislatures of the several States as an amendment to the Constitution of the United States, which when ratified by three-fourths of said legislatures, shall be valid, to all intents and purposes, as a part of said Constitution."

From February 1, 1865, to December of the same year, 27 of the 36 States ratified the 13th amendment, which was the necessary three-fourths for ratification. But two of these States were not legally admitted to statehood. Eight Southern States were among the ratifying States. If the Union consisted of 36 States as claimed by Seward and accepted by Congress, then the 11 Southern States were members of the Union. Over the 76-year period of the national existence, from April 30, 1789, to December 18, 1865, when Seward certified that the 13th amendment had become a part of the Constitution, no State was in the Union for one purpose and out of it for another.

On December 18, 1865, William H. Seward issued the following proclamation, to wit:

"And whereas it appears from certified documents on file in this department that the amendment to the Constitution of the United States proposed, as aforesaid, has been ratified by the legislatures of the states of Illinois * * * Virginia * * * Louisiana * * * Arkansas * * * Tennessee * * * South Carolina * * * Alabama * * * North Carolina * * * Georgia; in all twenty-seven states; and whereas the whole number of states in the United States is thirty six; and whereas the before specially named states, whose legislatures have ratified the said proposed amendment, constitute three-fourths of the whole number of states in the United States; now, therefore be it known, that I, William H. Seward, Secretary of State of the United States * * * do hereby certify that the amendment aforesaid has become valid, to all intents and purposes, as a part of the Constitution of the United States."

Had the Southern States reverted to territories or been conquered provinces or been a State outside the Union, there was no law or precedent established for their voting on any amendment. In Lincoln's Inaugural Address, March 4, 1861, he said, "I hold that, in contemplation of universal law and of the Constitution, the Union of these States is perpetual. * * * It follows from these views, that no State upon its mere motion can lawfully get out of the Union; that resolves and ordinances to that effect are legally void; and the acts of

violence, within any State or States, against the authority of the United States are insurrectionary, according to circumstances." Had the Congress considered the Confederate States outside the Union, these States like territories would not have voted on the 13th amendment. John Sherman, U.S. Senator from Ohio, said, "In all these plans the central idea was that the States were still States, entitled to be treated as such." They were described as "the 11 States which have been declared to be in insurrection." Sherman continues, "There was an expressed provision that no Senator or Representative shall be admitted into either branch of Congress from any said State until Congress shall declare such States entitled to such representation." In the National Union Convention, Philadelphia, August 1866, one resolution was to the effect that the Congress had declared the purpose of the war was to save the Union without the impairment of States rights.

The 39th Congress, which met in December 1865, created the Joint Reconstruction Committee. The purpose of this committee was "to inquire into the conditions of the States which formed the so-called Confederate States of America, and report whether they or any of them are entitled to be represented in either House of Congress * * * until such report be made and acted upon by Congress no member from such States be received into either House." This committee was composed of six Senators and nine Representatives as follows: Senators Fessenden (chairman), Howard, Harris, Williams, Grimes, and Johnson; Representatives Stevens (chairman), Blow, Conckling, Boutwell, Bingham, Morrill, Washburn, Grider, and Rogers. In 1866 the Joint Reconstruction Committee held that the so-called Confederate States were in the Union but "are not, at present, entitled to representation in the Congress of the United States." The minority report of this committee stated that no further demands should be made on the Southern States as a condition for admission of representatives to the Congress. The Constitution specifically provides that "Each House shall be the judge of elections, returns, and qualifications of its Members." The Congress accepted and acted upon the recommendations of this Joint Reconstruction Committee.

In his proclamation on December 18, 1865, Seward declared that the 13th amendment had been adopted by 27 of the 36 States of the United States. Among the adopting States were Louisiana, Arkansas, Tennessee, South Carolina, Alabama, North Carolina, and Georgia. Seward declared these States to be States in the United States. Since the Radical Congress did not challenge the accuracy of his proclamation and accepted the ratification of this amendment, then the Radical Congress recognized the Confederate States as States in the Union. Senator Johnson, Maryland, June 8, 1866, said, on the day the 14th amendment passed the Senate, "All the States are organized * * * have their judiciary, their executive, and their legislature, and they are now in the undisputed exercise of the functions of each of these departments and they embrace everything that a State has a right to do, and they are organized upon republican principles. The Supreme Court recognizes them as existing States. The Executive recognizes them as existing States. This very amendment recognizes them as existing States." He could have said that the Radical Congress had recognized them as existing States; the Joint Committee of Fifteen recognized them as existing States; and the 13th amendment recognized them as existing States. Therefore, the Southern States were States in the Union and had the same rights to adopt or reject an amendment as any other State.

After the Southern States had rejected the 14th amendment and as a consequence, Congress had set them up as new States under military despotism, William H. Seward, Secretary of State and one of the best constitutional lawyers of his day, said that he would never concede "that a sovereign State had been destroyed, or can be reduced to a territorial position." Hugh McCulloch, another Cabinet member of great ability, was in complete agreement with Seward. Stanton, Secretary of War, said, "I do not concur in Mr. Sumner's views, nor do I think a State would or could be remanded to a territorial condition." These views of Stanton were concurred in by Stanbery, Attorney General, and by Wells and Browning, also Cabinet members.

Many legislative bodies of the several States indicated by their acts that the so-called Confederate States were members of the Union. Connecticut and New Hampshire were the first two States to adopt the 14th amendment. The minority groups in each legislative body opposed the adoption for the reason that representatives in Congress from the Confederate States were unjustly excluded from framing the amendment. Maryland, March 23, 1867, rejected the

14th amendment on the ground that southern Representatives to Congress had been forcibly excluded from all participation in framing this amendment. In 1868 the Ohio Legislature passed a resolution that no amendment to the Constitution was valid until three-fourths of all the States had duly ratified it. The Oregon Legislature, October 15, 1868, rescinded the ratification of the 14th amendment on the ground that it was obtained by fraud and that the Southern States had rejected it and then ratified it under governments created by military despotism based on bushwhackers, scalawags, carpetbaggers, and Negro suffrage.

In *Texas v. White* in 1869, the U.S. Supreme Court held that "The obligations of the State, as a member of the Union, remained perfect and unimpaired. It certainly follows that a State did not cease to be a State nor her citizens of the Union. . . . Our conclusion therefore is, that Texas continued to be a State and a State of the Union." The judicial and executive branches of the Government unequivocally expressed the opinion that the States of the Southern Confederacy had been and were then members of the Union.

The legislative acts of Congress, the opinions expressed by individual members of the body and by the Congress permitting the Southern State legislatures to ratify or reject the 13th amendment are conclusive evidence that the Southern States were in the Union.

The Civil Rights Act of 1866, which was the forerunner of the 14th amendment, declared that all persons "of every race and color" were to have the right to give evidence, to make and enforce contracts, to sue, be sued, to inherit property, hold and give title to same, and to have the right "to full and equal benefit of all laws and proceedings for the security of person and property, as enjoyed by white citizens." This act set aside all local laws and customs, on account of race, color, or previous condition of servitude, which inflicted different penalties and punishment for like offenses committed by white persons. The only purpose of this act was to the Negro and white equal before the law. Lyman Trumbull, chairman of Senate Judiciary Committee, and the author of the civil rights bill, said the purpose of this bill was to invalidate the laws of Southern States which discriminated against the Negro and to carry into effect the 13th amendment. Since the States at the North had, by law, separate schools for the races and Senator Trumbull said that this act was aimed at the Southern States, then certainly the civil rights bill and the 13th amendment had no thought of integrated schools. Congress thought that Negro rights in the South were insecure and that these rights as expressed in the Civil Rights Act consisted solely of "the security of persons and property, as enjoyed by white citizens."

Senator Wilson, Massachusetts, who later became Vice President, pointed out that the civil rights bill was to annul the "black codes" and to place all the people under equal laws. He said that this act did not set aside State laws in regard to schools, juries and suffrage. Thornton, Illinois, said that he did not believe that civil rights included the rights of suffrage. Broomall, Pennsylvania, regarded the rights of petition, domicile, and transit as being some of the rights and immunities of citizens. Raymond, New York, said that if Negroes were made citizens of the United States, they would have the right to go from one State to another, to testify in Federal courts, and to bear arms. Latham, West Virginia, denied that Congress had the right to interfere with the internal policy of the States so as to define and regulate the civil rights and immunities of the inhabitants thereof. Wilson, Iowa, chairman of the House Judiciary Committee, who had charge of the bill and opened debate on it, said it was not the object of the bill to confer new rights but to enforce those which every citizen already had. He said that the bill did not mean that every citizen should be allowed to sit on juries and that their children should attend the same schools. Certainly nothing was in the civil rights bill which remotely suggested integrated schools. Davis, New York, opposed the civil rights bill on the ground that it gave power to the Central Government which was "intended to be exercised in the establishment of a perfect political equality between the colored and white race in the South." He was probably more nearly correct than he thought.

The Civil Rights Act was incorporated in section 1 of the 14th amendment to the Constitution. Some Members of Congress pointed out that the Civil Rights Act and section 1 of the 14th amendment had the same purpose and secured the same rights and immunities to the citizens; Stevens replied that the purpose was the same but the Civil Rights Act should be repealed by Congress, while the 14th amendment could not.

Many incidents, most of which were unimportant, hurt the Southern cause at the North. Carl Schurz reported that the South accepted defeat but looked for "some specie of serfdom or peonage without violation of their pledge." The Memphis and New Orleans riots of 1866 caused exaggerated concern at the North. President Johnson delivered a speech on February 22, 1866, in which he attacked Members of Congress by name and made other statements that aroused their anger. Many Southern States had passed a number of laws, apprentice acts, vagrancy acts, and labor contracts, to regulate the relationship between the Negro and the white man. These acts were called "black codes;" their purpose was to protect the Negro in his property rights, to allow him to appear in court when his race was concerned, and to recognize his family relationship. The Congress struck back at the South by introducing the 14th amendment, impeaching President Johnson and intimidating the Supreme Court.

14TH AMENDMENT

The 14th amendment officially appeared on June 16, 1866, in the form of a joint resolution by the Congress, as follows, to wit:

JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

*"Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of both Houses concurring), That the following articles be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which when ratified by three-fourths of said State legislatures, shall be valid as a part of the Constitution. * * **

On June 8, the Senate took the final vote on the proposed resolution for the 14th amendment. The Senators voted as follows:

State	For proposed amendment	Against amendment	Absent
California.....	Conness.....	McDougal.....	Dixon.
Connecticut.....	Foster.....	Riddle and Saulberry.....	
Delaware.....	Lane.....	Hendricks.....	
Indiana.....	Trumbull and Yates.....		
Illinois.....	Kirkwood and Grimes.....		Brown.
Iowa.....	Pomeroy and Lane.....		
Kansas.....		Davis and Guthrie.....	
Kentucky.....	Morrill and Fessenden.....	Johnson.....	
Maine.....	Creswell.....		Wright.
Maryland.....	Wilson and Sumner.....		
Massachusetts.....	Howard and Chandler.....		
Michigan.....	Ramsey.....	Norton.....	
Minnesota.....	Henderson.....		Nesmith.
Missouri.....	Cragin and Fogg (for Clark).....		
New Hampshire.....	Vacancy.....		
New Jersey.....	Harris and Morgan.....		
New York.....	Stewart and Nye.....		Buckalew.
Nevada.....	Sherman and Wade.....		
Ohio.....	Williams.....	Cowan.....	
Oregon.....			
Pennsylvania.....	Anthony and Sprague.....		
Rhode Island.....	Edmonds and Poland.....		
Vermont.....	Willers.....	Van Winckle.....	
West Virginia.....	Howe.....	Doolittle.....	
Wisconsin.....			
States.....			25
For.....			33
Against.....			11
Absent.....			8

On June 18, 1866, the House took the final vote on the proposed resolution for the 14th amendment. The representatives voted as follows:

State	For proposed amendment	Against amendment	Absent
California	Edwell, Higby, McRuer		
Connecticut	Warner	Grider	Brandegree, Deming.
Delaware		Nickleson	
Indiana	Julian, Orth, Deftrees, Du- mond, Farquhar, Coffar, Stillwell, Washburn.	Kerr, Nibbick	Hull.
Illinois	Baker, Bromwell, Cook, Cullom, Farnsworth, Kuy- kendall, Wentworth, Moul- ton.	Marshall, Ross, Thornton	Ingersoll, Washburne.
Iowa	Alison, Orinnell, Hubbard, Price, Wilson.		Kasson.
Kansas	Clarke		
Kentucky	Darling, McKee, Handell	Harding, Ritter, Trimble	Rousseau, Shanklin.
Maine	Blaine, Lynch, Perham, Pike, Rice		
Maryland	Phillips, Thomas, Thomas		Harris, McCullough.
Massachusetts	Alley, Ames, Baldwin, Banks, Boutwell, Dows, Eliot, Hooper, Rice, Washburn.		
Michigan	Beaman, Briggs, Ferry, Longyear, Trowbridge, Up- son.		
Minnesota	Donnelly, Windom		
Missouri	Kelso, Loan, McClung	Hogan	Anderson, Blow, Benjamin, Noell, Marston, Rollins. Starr.
New Hampshire		Rogers, Wright, Sitgreaves	
New Jersey	Newell	Bergman, Tabor, Chandler, Hubbell, Humphrey, Tay- lor, Windfield.	Goodyear, Hub- bard, Hulburd, Van Horn, Jones, Radford, Hum- phrey.
New York	Conckling, Darling, Davis, Dodge, Griswold, Hale, Hart, Holmes, Hotchkiss, Hubbard, Hubbell, Lofton, Ketcham, Marvin, Morris, Pomeroy, Raymond, Word, Van Aernam, Van Horn.		
Nevada	Ashley		
Ohio	Ashley, Bingham, Bondy, Buckland, Clarke, Delmo, Eckley, Eggleston, Hayes, Garfield, Plants, Schenck, Shellobarger, Spalding, Walker.	Finck, Le Bland	Lawrence.
Oregon	Henderson		
Pennsylvania	Kelley, Lawrence, Mercur, Miller, Moorehead, O'Neal, Schofield, Stevens, Thayer, Williams, Wilson, Barker, Smith.	Ancona, Boyer, Cofforth, Dawson, Dennison, Strous, Randall, Glassbrenner.	Broomall, Culver, Johnson.
Rhode Island	Jenckes		
Vermont	Baxter, Morrill		Dixon, Woodbridge.
West Virginia	Hubbard, Latham, Whaley		
Wisconsin	Cobb, Paine, Sawyer, Sloan	Eldridge	McEndee.

States	25
For	120
Against	32
Absent	

The Constitution provides that "The Congress, whenever two thirds of both Houses shall deem it necessary, shall proposed amendments to this Constitution." In the 39th Congress, the House had 184 Members and the Senate 49. In the Senate, the vote on the resolution proposing the 14th amendment was 33 to 11 but 5 Senators did not vote. In the House the vote was 120 to 32 in favor of the proposed amendment; 32 Members not voting. The resolution proposing the 14th amendment passed in the Senate by two thirds majority but it failed in the House. The vote in the House should have been 124 instead of 120:

therefore, the resolution proposing the 14th amendment was invalid and it should not have been sent to the States.

The Supreme Court has held, however, that "The two thirds vote of each House which is required in proposing an amendment is a vote of two thirds of the Members present, assuming the presence of a quorum, and not a vote of two thirds of the entire membership, present or absent." In another case the Supreme Court held that "An examination of article V discloses * * * that the proposal shall have the approval of two thirds of both Houses * * * ratification is to be effective when had in three fourths of the States * * *. It must reflect the will of the peoples in all sections * * * all amendments must be the sanction of the people * * * acting through representative assemblies * * *." The procedure followed in getting the 14th amendment declared adopted hardly agrees with the Constitution and Supreme Court decisions.

In cases of impeachment, the Constitution provides that "And no person shall be convicted without the concurrence of two-thirds of the members present"; and in treaties, it provides that "He shall have power * * * to make treaties, provided that two thirds of the Senators present concur." In these instances the Founding Fathers used the word "present" possibly to indicate that a quorum was all that was intended. But in three other instances in which the expression "two thirds" was used in the Constitution, the Founding Fathers meant two-thirds of the total membership of each House. On December 4, 1865, Thaddeus Stevens, by getting two thirds vote in the House, excluded the Representatives from the newly reconstructed States. "If after * * * two thirds of that House shall agree to pass a Bill, it shall be sent to the other House * * * and if approved by two thirds of that House, it shall become law"; "and before the same shall take effect, it shall be approved by him, or being disapproved by him, shall be re-passed by two thirds of the Senate and House of Representatives"; and "whenever two thirds of both Houses shall deem it necessary, shall propose amendments"; and "Each House may determine the rules of its proceedings * * * and, with the concurrence of two thirds, expel a member."

Each legislature of the 37 States received this amendment for ratification, complying with the resolution of June 16, 1866. Again the Congress was recognizing the statehood of the Southern States. The Congress had never recognized these States as being anywhere except sovereign States of the Union. The first State to ratify this amendment was Connecticut on June 30, 1866, and the last State to ratify it was Delaware on February 12, 1901. Tennessee was the first Southern State to ratify it on July 19, 1866. The people of Tennessee did not approve the 14th amendment and would have defeated it if they had had an opportunity to have done so. In the legislature, the Senate voted 16 to 14 upon the amendment while in the House a quorum could not be had. Absent House Members were taken into custody and held as prisoners. After the vote in the House had been taken, Speaker Haskell declared that a quorum was not present. The membership of the House ruled otherwise and then the 14th amendment was declared adopted. Again the carpetbaggers, scalawags, and the bayonets had their way. Ten Southern States, Arkansas, Texas, South Carolina, North Carolina, Alabama, Florida, Virginia, Mississippi, and Georgia, together with 6 States north of the Mason-Dixon line, rejected this amendment. In admitting West Virginia and Nevada to statehood, the Congress did follow the laws and the provisions of the Constitution. West Virginia was formed from another State without the consent of that State and Nevada had not met the requirements for statehood. Including Nevada, Tennessee, and West Virginia, 21 States voted for the ratification of the 14th amendment and 15 States rejected it. California did not vote, which had the effect of voting against the amendment. Thus this amendment was rejected and should have been relegated to the limbo of all defeated amendments.

The chart below shows the adopting States, vote cast in the legislatures, and the date of adoption of the 14th amendment:

State	Vote in senate		Vote in house		Date ratified
	Yeas	Nays	Yeas	Nays	
Connecticut.....	11	6	125	88	June 27, 1866
New Hampshire.....	9	3	207	112	July 6, 1866
Tennessee.....	16	14	43	11	July 19, 1866
Oregon.....	13	9	23	21	Sept. 19, 1866
Vermont.....	28	0	196	11	Oct. 30, 1866
Missouri.....	26	6	85	24	Jan. 8, 1867
New York.....	23	3	71	36	Jan. 9, 1867
Kansas.....	23	0	76	7	Jan. 10, 1867
Illinois.....	17	8	60	23	Jan. 15, 1867
Maine.....	(1)	(1)	126	12	Do.
West Virginia.....	15	3	43	11	Jan. 16, 1867
Michigan.....	25	1	77	15	Do.
Minnesota.....	16	5	40	15	Do.
Nevada.....	10	3	34	4	Jan. 21, 1867
Indiana.....	29	18	56	36	Jan. 23, 1867
Rhode Island.....	26	2	60	9	Feb. 7, 1867
Wisconsin.....	22	10	69	18	Feb. 13, 1867
Pennsylvania.....	21	11	62	34	Do.
Massachusetts.....	27	6	120	20	Mar. 20, 1867
Nebraska.....	8	6	26	11	June 10, 1867
Iowa.....	34	9	68	12	Mar. 8, 1868

1 Unknown.

The vote on the 14th amendment in the 21 States that adopted it appeared to have been strictly along party lines. Bernard Oregan, House, New York Legislature was the only known Democrat to vote for this amendment. If the purpose of the 14th amendment was integrated schools as the Supreme Court has held, then the vote in northern legislatures was overwhelmingly for integration. Yet, Massachusetts was the only State that erased the color line. It would be absurd for a State to forbid Negroes to come into or travel within the State, to provide for segregated schools by law and then to vote overwhelmingly for integration. Since such an act would hardly be logical, it would follow that the people at the North did not think that the 14th amendment had for its purpose integrated schools at the Supreme Court has held; to the contrary, the people had been told that the primary purpose of this amendment was to protect the Negro in liberty, life, and property.

The chart below shows the rejection of the 14th amendment by States, votes cast in legislatures and date of rejection.

State	Vote in senate		Vote in house		Date rejected
	Yeas	Nays	Yeas	Nays	
Texas.....	27	1	70	8	Oct. 13, 1866
Georgia.....	38	0	147	2	Nov. 9, 1866
Florida.....	29	0	49	0	Dec. 3, 1866
Alabama.....	33	3	66	8	Dec. 7, 1866
North Carolina.....	45	1	43	10	Dec. 18, 1866
Arkansas.....	24	1	68	2	Dec. 17, 1866
South Carolina.....	(1)	(1)	65	1	Dec. 20, 1866
Louisiana.....	(1)	(1)	100	0	Feb. 6, 1867
Virginia.....	27	0	74	1	Jan. 9, 1867
Mississippi.....	27	0	88	0	Jan. 25, 1867
California.....					
Kentucky.....	24	9	67	27	Jan. 8, 1867
Ohio.....	19	17	66	46	Jan. 15, 1867
Delaware.....	6	3	13	0	Feb. 7, 1867
Maryland.....	13	4	47	10	Mar. 23, 1867
New Jersey.....	11	9	45	13	Mar. 5, 1867
Total, 16 States.....	251	48	837	131	

1 Unknown.

2 Recommended that no action be taken on 14th amendment, Mar. 4, 1866.

States.....	16
Vote in senate.....	251-48
Vote in house.....	837-131

By March 5, 1868, 16 States had rejected the 14th amendment. Ten of these were Southern. The amendment was defeated, but Congress was not. Congress passed the Reconstruction Act, March 2, 1867, which divided the 10 Southern States into 5 military districts with a major general over each. A constitutional convention should be called in each State and delegates were to be chosen by all citizens except those disfranchised. When the legislature under this new constitution had adopted the 14th amendment and this amendment had become a part of the Federal Constitution, then the representatives from the Southern States would be admitted to Congress. Under the governments of military despotism, the new legislatures adopted the 14th amendment; and on June 22, 1868, Congress passed the Arkansas Act to admit Arkansas' representatives to Congress.

The Arkansas Act is as follows:

"Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That the State of Arkansas is entitled and admitted to representation in Congress as one of the States in the Union upon the following fundamental conditions: That the Constitution of the State of Arkansas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the Constitution herein recognized, except as they shall have been duly convicted, under laws equally applicable to all the inhabitants of said State: Provided, That any alterations of said Constitution prospective in its effects may be made in regard to the time an place of residence of voter."

It will be noted that this act does not admit Arkansas into the Union; it merely admits her representatives to Congress. Arkansas was admitted to statehood on June 15, 1836. If this State has since been out of the Union, she is still out, for she has never been readmitted. The Congress, the Executive, and the Supreme Court have held that the Southern States have never been out of the Union; and as a consequence, the adoption of the 14th amendment by newly established bodies avowing themselves to be acting as the legislatures of the Southern States was invalid and of no effect. When the 10th State, Virginia, January 9, 1867, rejected the 14th amendment, it was then and there defeated.

On June 25, 1868, Congress passed a bill similar to the Arkansas Act admitting representatives from Louisiana, North Carolina, South Carolina, Florida, Alabama, and Georgia, to the Senate and House.

Under the provisions of the Reconstruction Act of March 2, 1867, the military commanders registered the voters and made the necessary preparations, on the basis of Negro suffrage, for electing delegates to the constitutional convention and members of the State legislatures. The oath of allegiance was so severe that 200,000 of the better trained and more intelligent white citizens were disfranchised. In South Carolina Legislature, only 22 members out of 155 could read and write. The Governor of that State said that 200 trial judges could not read. In the 5 military districts, about 700,000 Negro voters and about 600,000 white carpetbaggers, scalawags, and bushwhackers with a small sprinkling of the better southern white men, were registered.

Of the 45 white Radicals in the Virginia constitutional convention, 14 were natives, 13 came from New York, and 6 were from the British Isles and Canada. The new constitution of Alabama was framed by strangers, deserters, bushwhackers, and perjured men. In Arkansas, only 9 delegates out of a total of 66 were natives and 3 of these were Negroes. Negroes sat in all the constitutional conventions and the State legislatures. Through turmoil and confusion, the Negroes, carpetbaggers, bushwhackers, and scalawags adopted three constitutions for Florida; one of these appeared to have been written in Chicago. The Radical Congress had 19,320 soldiers stationed at 134 places to enforce their will upon a vanquished people.

The constitutional conventions in the five military districts were made up of delegates as follows:

State	Negroes	Carpet-baggers and scalawags	State	Negroes	Carpet-baggers and scalawags
Alabama.....	18	90	Mississippi.....	17	83
Arkansas.....	8	58	North Carolina.....	15	118
Florida.....	18	27	South Carolina.....	78	48
Georgia.....	33	137	Texas.....	9	81
Louisiana.....	49	49	Virginia.....	25	80

The legislatures of the newly organized State governments in the South established under military despotism, voted on the 14th amendment as follows:

States	Vote in senate		Vote in house		Adopted
	Yeas	Nays	Yeas	Nays	
Arkansas.....	23	0	56	0	Apr. 6, 1863
Florida.....	10	2	23	6	June 8, 1863
North Carolina.....	34	2	82	19	July 2, 1863
South Carolina.....	23	5	108	12	July 9, 1863
Louisiana.....	22	11	()	()	Do.
Alabama.....	()	()	()	()	July 13, 1863
Georgia.....	()	()	89	71	July 21, 1863
Virginia.....	44	4	126	6	Oct. 5, 1869
Mississippi.....	23	2	87	6	Jan. 17, 1870
Texas.....	()	()	()	()	Feb. 18, 1870

! Unknown.

For instance in the South Carolina Legislature, the lower house had 78 Negroes and 46 whites; the senate had 21 Negroes and 10 whites. Ninety-one of these paid no taxes and a vast majority of the members of the legislature could neither read nor write. About the 14th amendment, Chief Justice Warren said "What * * * the State legislatures had in mind cannot be determined with any degree of certainty." Certainly he was correct about the reconstruction legislatures when only about one member in seven could read and write and almost all the Negroes had been fieldhands only a few weeks before; the majority of the white men in these legislatures were unprincipled fortune seekers from the States whose only interest was to line their pockets with southern booty. But he was incorrect when he said what the 26 Northern States legislatures had in mind cannot be determined with any degree of certainty." Doubtless the Chief Justice is a better politician than historian; which is no qualification for a member of the Supreme Court.

The Secretary of State, William H. Seward, whose duty it was to declare the ratification of the 14th amendment under an act of Congress approved on April 20, 1818, entitled "An act to provide for the publication of the laws of the United States, and for other purposes," doubted the validity of the method used in getting the amendment ratified. In Seward's proclamation, he said, "And whereas neither the act just quoted from, nor any other law, expressly or by conclusive implication, authorizes the Secretary of State to determine and decide doubtful questions as to the authenticity of the organization of State legislatures, or as to the power of any State legislature to recall a previous act or resolution of ratification of any amendment proposed to the Constitution * * *." Seward said that the amendment had "been ratified by newly constituted and newly established bodies avowing themselves to be acting as the legislatures, respectively, of the States of Arkansas, Florida, North Carolina, Louisiana, South Carolina, and Alabama." Seward continues "And whereas it further appears from official documents on file in this Department that the legislatures of the two States first mentioned above, to wit, Ohio and New Jersey, have since passed resolutions respectively withdrawing the consent of each of said States to the aforesaid amendment * * *." In concluding the proclamation, Seward said, "Now, therefore, I certify that if the resolutions of the Legislatures of Ohio and New Jersey ratifying the amendment are * * * of full force * * * notwithstanding the subsequent resolutions, then the * * * amendment has been ratified * * * and so has become valid."

Proposed amendments to the Constitution have the nature of petitions when the Congress presents them to the several States. The States may either adopt or reject or ignore a proposed amendment. The signers of a petition may, before the petition has been acted upon, either sign or withdraw their signatures. This procedure has been valid in all courts of the English-speaking people. Therefore, the people of Ohio and New Jersey were within their legal and lawful rights in withdrawing their consent to the proposed 14th amendment before it had been finally acted upon.

In an attempt to cure the defect in Seward's proclamation, Congress passed a concurrent resolution on July 21, 1868, as follows:

"Whereas the Legislatures of the States of Connecticut, Tennessee, New Jersey, Oregon, Vermont, West Virginia, Kansas, Missouri, Indiana, Ohio, Illinois, Minnesota, New York, Wisconsin, Pennsylvania, Rhode Island, Michigan, Nevada, New Hampshire, Massachusetts, Nebraska, Maine, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, and Louisiana, being three-fourths and more of the several States of the Union, have ratified the 14th article of amendment to the Constitution of the United States, duly proposed by two-thirds of each House of the 39th Congress: Therefore

"Resolved by the Senate (the House of Representatives concurring) That said 14th article is hereby declared to be part of the Constitution of the United States, and it shall be duly promulgated as such by the Secretary of State." But this resolution did not make the adopting procedure constitutional which forced ratification of this proposed amendment on the Southern States by military might nor did it increase the number of ratifying States. Clearly the Constitution does not provide that concurrent resolutions will make a proposed amendment valid; it provides that "amendment * * * shall be valid * * * when ratified by the * * * legislatures of three-fourths of the several States, or by convention in three-fourths thereof." The concurrent resolution of July 21, 1868, recognized the statehood of seven Confederate States and all of these States had previously adopted the 13th amendment and six of them had rejected the 14th.

Between the adoption of the 13th amendment and the concurrent resolution of July 21, 1868, the Confederate States in some mysterious way got themselves out of the Union and in some way equally mysterious they got themselves back in again; this was a kind of off again, on again, gone again, Flannagin. If the Reconstruction Act was constitutional, then the Confederate States are out of the Union still; they have not been readmitted. But, if the Reconstruction Act was unconstitutional, then the proposed 14th amendment is invalid. What is the relationship of the Confederate States today with the Union? Or have the Confederate States gone through the "statute of limitation theory", and are today back in the Union? It was extremely doubtful that the Negro and carpetbaggers who voted and held office during the period the proposed 14th amendment was declared adopted, were legal voters and officeholders of the States wherein they resided. The procedure followed in adopting this amendment completely destroyed the political autonomy of the Southern States.

The constitution of the State of Texas, 1866, provides that "Every free male person who shall attain the age of 21 years, and who shall be a citizen of the United States, and shall have resided in the State 1 year next preceding an election * * * (Indians not taxed, Africans, and descendants of Africans excepted), shall be deemed a qualified elector." Under this constitution, Texas rejected the 14th amendment; but under the Reconstruction acts, Texas adopted it. In effect the U.S. Supreme Court annulled the Reconstruction acts in *Texas v. White* in 1869. The Reconstruction act declared that "no legal State government * * * now exist in the rebel States"; but in *Texas v. White* the Court held that "The obligations of the State, as a member of the Union, remained perfect and unimpaired." And since those who adopted the 14th amendment on February 18, 1870, were not elected to office by the electors of Texas, then the adoption of this amendment was not legal. A similar situation existed in the other Southern States.

There was no law or precedent for holding an amendment in abeyance until the "recalcitrant" States could be disciplined; yet that was the procedure. All States are entitled to be guaranteed "a republican form of government" by the National Government. The Constitution does not define "a republican form of government"; but unmistakably the governments of the Thirteen Original States, in which the States themselves determine the voters, were "republican in form." Although the Constitution guarantees each State "A Republican Form of Government" and provides that "the several states" shall determine who shall vote in elections within the State, the Congress disfranchised more than 200,000 white men in the Southern States that had rejected the 14th amendment. These acts of Congress were sufficient grounds for the courts to have declared the amendment unconstitutional; but for fear of being abolished, the courts hesitated to act. Not one voter was disfranchised from Northern States that rejected this amendment. The Democrat platform of July 1868 said, "the principle and trust of the suffrage have belonged to the several States, and have been

granted, regulated, and controlled exclusively by the political powers of each State, respectively * * * to deprive any State of this power * * * can find no warrant in the Constitution." By such wholesale disfranchisement of white voters in the South, the carpetbaggers, scalawags, and Negroes ratified the amendment in those States. The Constitution provides that "The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states." Clearly, disfranchised citizens had been deprived of their constitutional rights. If the Southern States were in the Union, then the States themselves would determine who could vote in an election and hold office and not the Congress, otherwise these States would not have "a republican form of government." If the Southern States were outside the Union, then amendments 13 and 14 would not have been received by their legislatures by law or precedent. The Congress had now abandoned all constitutional and statutory law in relationship to the Southern States and its Members resorted to personal feelings and sentiment.

PURPOSE OF THE 14TH AMENDMENT

On August 26, 1865, Stevens, in a letter to Sumner, advised that they must "get the rebel States in a territorial condition" so that Negro suffrage could "be easily dealt with * * *. That, I think, should be our great aim." Charles Sumner, in a letter to John Bright, said that the rebel States should be organized "on the footing of the Declaration of Independence with all persons equal before the law * * *. If all whites must vote, then must all blacks, only through him (the Negro) can you redress the balance of our political system and assure the safety of patriotic citizens * * *. He is our best guarantee. Use him."

That Members of Congress who framed, debated, amended, and voted on the 14th amendment knew its purpose is beyond controversy. It is inconceivable that Members of Congress like Howard, Johnson, Sherman, Trumbull, Sumner, Garfield, Bingham, Fessenden and a host of others did not know the objectives of the 14th amendment. Also it is inconceivable that vindictive Members like Stevens, Butler, Boutwell, Sumner and others thought the 14th amendment had for its objective public education since it was neither incorporated in it nor in the Civil Rights Act.

To him who would read the speeches of Senators and Representatives in Congress assembled on the purpose and intent of the 14th amendment, the Congressional Globe and the Congressional Record are available. These are primary sources and there can be no doubt of the purposes and intent of the Civil Rights Act of 1866 and the 14th amendment as herein recorded. If a phrase or a clause, or a sentence or a combination of these in the 14th amendment could have been construed or that it was the purpose and intent of the framers of this amendment to mean integrated schools, then by the same reason and logic, it would follow that all citizens, otherwise qualified, would have the right to vote. Yet a majority of the Congressmen who framed the 14th amendment also framed the 15th amendment which declared that "The right * * * to vote shall not be denied * * * by any State on account of race, color or previous condition of servitude."

On March 3, 1865, Congress created in the War Department "a Bureau of Refugees, Freedmen, and Abandoned Lands" which was better known as the Freedman's Bureau. The purpose of this Bureau, among other things, was the supervision of schools for Negroes. The educational movement for the Negro was carried forward by certain aid societies organized all over the North. Possibly 375 or more of these societies and auxiliaries helped in Negro education in the South. Each of these societies would send from one to seven teachers to help in the schools set up for the Negroes. The educational work done by the Bureau was to help the schools that had been set up by the Freedmen's Union Commission and the American Missionary Society rather than set up schools themselves. The Bureau provided free transportation for teachers, provided school buildings, and for most of the cost for these schools, \$5,262,511, which came from confiscated Confederate property.

The census for 1860 gave the slave population for the South at 3,033,580; and together with the free Negroes, the Negro population was well over 4 million. Over a period of 7 years, 1865 to 1872, the Radical Congress spent less than \$2 on each Negro for schools; and the South furnished \$1.40 of this amount in confiscated property. While the Radical Congress spent less than 60 cents over a 7-year period for each Negro or less than 9 cents annually, 17 States at the North spent \$6.64 in 1865 on each schoolchild. In 1872 the Freedmen's Bureau ceased to function and then for any court to hold that Congress was interested in the educational well-being of the southern Negro would be most controversial.

As little as it was, the Freedmen's Bureau was the most important gesture made by the Radical Congress toward Negro education in the South. Congress was neither interested in the educational well-being nor the social elevation of the Negro. The Congress was considerably more interested in the political status of the Negro and slightly interested in his economic standards. The Radical Congress had plans for building a powerful Republican Party in the South from Negroes, carpetbaggers, and scalawags. One writer said that the Union League "voted the Negroes like herds of senseless cattle." Negro leaders were dissatisfied with minor places and many of them were placed on State tickets and others were even sent to the Congress as Senators and Representatives, a place which the carpetbaggers wanted. The northern Radical had reasons to believe that the less education and training the Negro had the smaller would be the "political plum" that would satisfy him and the more amenable he would be to be voted "like herds of senseless cattle." Therefore, the contention of the courts that the 14th amendment had Negro education for an objective was not based on facts.

The motivating force behind the 14th amendment was the desire by the Radicals to stay in power. The purpose of this amendment was purely political, to republicanize the South and to have a platform for the election in 1866. The Republicans realized that as long as the Southern States were in subjection and out of relationship with the National Government on an equal basis as other States in the Union, the party could control the Nation. The Republicans knew that the northern Democrats could not win an election without the South and West. Stevens said, "Just so much as the Democrat Party shall again get the ascendancy just so much will that same spirit of despotism run riot which has disgraced this Nation for a century." If the Southern States were permitted to assume their old status in the Union by Congress, the Radicals feared an alliance between the southern planters, western farmers and the northern Democrats, which could cause them to lose control over Congress. Then there were those in the Republican Party who saw that the South had many remunerative offices for her party leaders if the South were not rehabilitated. To stay in power, Congress denied representation to the Southern States and to Democratic Congressmen from Kentucky in 1867 on the pretense that they were elected by "returned rebels" and some of the representatives-elect were said to be "disloyal." Representative Daniel Voorhees of Indiana and Senator John P. Stockton of New Jersey were expelled from Congress because they opposed the Radical reconstruction program. Some Members of Congress were intimidated and others were coerced. Criticism of the Radicals, of big business, of high taxes, of high tariffs and of corruption placed the Republican Party on defense. Stevens said of the 14th amendment that "I do not hesitate to say at once that section 3 is in there to save or destroy the Union (Republican) Party." "The 14th amendment, inspired by a fear that the freemen would be oppressed and by a hope that they might be converted into an ally of the Republicans, was submitted to the States before the Reconstruction Acts were passed." Historians agree that the 14th amendment was "a shrewdly conceived political platform, especially designed to catch votes in the forthcoming election in 1866." Hence, political expedience, not the rebellion or the "establishment * * * of basic civil and political rights," caused the Radicals to set up the 14th amendment and the harsh reconstruction program.

Contemporary history of the 14th amendment tends to show that the Radicals intended only to protect the Negro in his new freedom of life, liberty, property, and did not contemplate for him a system of political and social rights. In spite of the 13th amendment considerable bondage could be had by the State legislatures. So the friends of the Negro determined to put the rights of life, liberty, and property beyond the reach of State legislatures and to secure to all persons equal protection of the laws. In February of 1865, the reconstruction bill declared that "the pretended State government of the so-called Confederate States did not protect adequately life and property, but countenanced and encouraged lawlessness and crime." "But the most common view was to the effect that the (14th) amendment would be used principally to surround the newly emancipated slaves with safeguards against their former masters who might be tempted to restore serfdom under apprentice and penal laws and other legal guises."

Thaddeus Stevens, one of the leading men in the House, stated that the purpose of the 14th amendment was to allow "Congress to correct the unjust legislation of the States, (black codes and other similar State laws), so * * *, that the law that operates upon one man shall operate equally upon all. * * * Whatever

law punished a white man * * * shall punish the black man precisely in the same way and in the same degree. * * * Whatever law allows a white man to testify in court shall allow the man of color to do the same. * * * These are the great advantages over the present code." Stevens and his colleagues were thinking of the immediate postwar problems dealt with by the 14th amendment, that of protecting the life, liberty, and property of the Negro and nothing more.

The Supreme Court held, May 17, 1854, that segregated schools deprived Negroes of "equal protection of the law guaranteed by the 14th amendment." Neither "equal protection of the law" in section 1 of the 14th amendment nor the 14th amendment itself referred to segregated or integrated common schools; it did not refer to schools at all. Garfield, June 13, 1866, in the House, said that 17 Northern States had 90,835 schools, 129,000 teachers, 5,107,285 pupils and these States spent \$34 million on their schools in 1865. He then stated that Ohio spent on her common schools \$12 million in a 5-year period from 1860 to 1864, inclusive. In 1865, Ohio spent \$3 million or 52 percent of her taxes on 700,000 schoolchildren and 13,000 schoolhouses. Pennsylvania set up her public school system in 1834 under the leadership of Thaddeus Stevens. By law Ohio and Pennsylvania had segregated schools and the constitution of Illinois prevents integrated schools there.

Public school systems in the South did not exist while a crime wave did, caused by Negro, scalawag, carpetbagger and bushwacker domination of the southern white man, supported by yankee bayonets. The blood that flowed was fairly equally mixed with Negro, scalawag, carpetbagger, bushwacker, and blood of the southern white man. "The equal protection of the law," as used in the 14th amendment, guaranteed to the Negro that courts would have one standard of justice and that he would be tried in courts like he were a white man and nothing more was contemplated for him. The only purpose of "equal protection of the laws" was to protect the Negro against "lawlessness and crime;" while it appeared that the southern white man could protect his wife, children, and himself as best he could without weapons against the Negro, scalawag, carpetbagger, and bushwacker. Often he needed protection against Yankee troops stationed in the South and did not get it.

In one 12-month period, 1,085 men had been murdered in Texas; the Federal attorney thought that the real number was nearer 2,000. It was officially reported that 2,970 persons from 108 counties were wanted for crime. General Thomas reported "murders, robberies, outrages of all kinds" in the rural districts of Tennessee; the Freedmen's Bureau report 197 murders and 548 cases of aggravated assault in North Carolina and South Carolina. Governor Warmoth of Louisiana said that 150 men had been murdered in a 6-week period and that altogether more than 2,000 people had been murdered. In Mississippi, General Ames said the protection of persons in their lives and property was impossible. Powell Clayton, Governor of Arkansas, said hardly a day passed that was free of lynchings and assassinations. In view of the innocent blood that dripped from his fingers, he was in good position to know whereof he spoke. "Lawlessness and crime" was equally as bad in Kentucky, Alabama, Missouri, Georgia, and Florida. That "equal protection of the law" had for its purpose integrated schools is pure figment of the mind.

Congressman Bingham declared that the only purpose of the 14th amendment was to enforce the Bill of Rights in the Constitution and to prevent cruel and unusual punishment which have been inflicted under State laws not for crimes committed but for duty done. In further discussion of the amendment, he said the "great want of the stranger and the citizen protection by national law from unconstitutional enactments" would be supplied by section 1. He said no person should be deprived of life without the due process of law but life had never "been protected, and is not now protected, in any State of this Union by statute law of the United States."

Senator Howard, Michigan, said that the purpose of the 1st section of the 14th amendment was a general prohibition upon the "States, as such, from abridging the privileges and immunities of the citizens of the United States." The privileges and immunities, he said, were those belonging to "citizens of the United States, as such, and as distinguished from all other persons not citizens of the United States." He named the following as being privileges and immunities: "protection by the Government, enjoyment of life and liberty, right to acquire and possess property, to obtain happiness and safety, the right of habeas corpus, to institute and maintain actions of any kind in courts of the State, equal tax rate, for citizens of one State to reside in another for the purpose of trade, agricul-

ture, and professional pursuits. He said the great object of the first section of this amendment is; therefore, to restrain the power of the States and to compel them at all times to respect these great fundamental truths."

Farnsworth, Illinois, quoted from a speech made by Stevens of Pennsylvania, said that the purpose of the 14th amendment was to correct unjust and partial legislation against the Negro in Southern States. Certainly the unjust and partial laws the 14th amendment proposed to correct did not concern public education in the South since there were no common schools supported by taxation.

Broomall, Pennsylvania, said that the object of the 1st section of the 14th amendment was "to give power to the Government of the United States to protect its own citizens within the States, within its own jurisdiction." Randall of the same State said that the 1st section of the 14th amendment was "to make equality in every respect between the two races." Governor Cox, Ohio, recommended to the legislature the adoption of the 14th amendment to correct certain evils in the South. Obviously separate schools was not one of the evils referred to since Ohio and other Northern States had separate schools by law and by choice.

James Abram Garfield, Ohio, declared that the 1st section of the 14th amendment was a limitation of the powers of the States to legislate unequally as to life and property to be said, that was the interpretation placed upon this amendment by Stevens and almost all the Republicans in Congress. Poland, Vermont, said that the privileges and immunities to be had from the 14th amendment were those found in the fourth article of the Constitution; Howe, Wisconsin, said that among the privileges of citizens were the right to hold land, to appear in court, and to give testimony. In 1871, Trumbull, Illinois, said that "the States were, and now are, the depositories of the rights of individuals against encroachment," in speaking of the 14th amendment.

Thurman, February, 6, 1872, in a speech in Congress, 4 years after adoption of the 14th amendment, said there was no provision in the Constitution which gave anyone the right to sit on a jury in a State court, nor was there any power there to compel all children to attend the same schools, since there could be separate schools for the races and sexes. He said that the privileges and immunities which a citizen could not be deprived of were in the original Constitution, such as *ex post facto* law, habeas corpus, and bill of attainder, and then quoted the first eight amendments as other rights and privileges belonging to citizens.

Finck, Ohio, said his position in regard to the 14th amendment was that it was merely a prohibition upon the States, and it conferred no affirmative power upon Congress to go into the States and regulate the intercourse of their citizens. Senator Sherman and Congressman Finck in 1871 agreed with the Ohio State Supreme Court, page 191, 21 Ohio State Reports, that a State had a right to regulate its schools on a separate basis. After the 14th amendment had been declared adopted, Kerr, Indiana, said that the laws of his State did not allow Negroes to attend the schools for whites. Morrill, Maine, who opposed the civil rights bill of Sumner, did so for the reason that the Federal Government had no right to take part in matters of worship, recreation, amusements, and education, and "that it is without warrant in the Constitution." Governor Morton, Indiana, in his message to the general assembly recommended separate schools for Negroes and whites on account of dissatisfaction that would be caused by both races attending the same schools.

Boutwell, Michigan, in 1875, said that the first privilege of citizens of the United States was that they were citizens of the State wherein they reside, and the chief right of a citizen of a State was that he was equal before the law of every other citizen of that State. It was this right of being equal before the law which he derived from being a citizen of the United States, and, consequently, a citizen of the State, which the Federal Government was enabled to see enforced under the 14th amendment. Another Radical said, "the Negro has but one object, self. He accepts the labors of his white friends as a matter of course, and he works for nobody but himself. He cries for equality before the law, equal rights and privileges, and yet the last to grant the same thing he asks for."

The New York Herald stated that the main purpose of the 14th amendment was to keep the southern representatives out of Congress until the election. The New York World quoted Congressman Bingham as having said that "The Congress shall have power to make all laws necessary and proper to secure to all persons in every State of the Union, equal protection in their rights of life, liberty, and property."

In all bills, acts, amendments, and in all references to the rights, privileges, and immunities of the Negro, the word "equal" was used by the members

of the Radical Congress, the press, and other American citizens; the word "same" was not used. Since many of America's ablest lawyers were in Congress, it would be superfluous to say these men did know etymology.

A series of civil rights bills were introduced into Congress, first and last. A civil rights bill became law in 1866; and, thereafter, civil rights bills were attached or offered as amendments to many other pieces of proposed legislation. In December 1871, Grant recommended to Congress a general amnesty bill. Sumner offered an amendment to this bill which granted to Negroes equal rights in railway stations, on trains, on steamboats, to sit with whites in theaters and churches, to eat with whites in hotels, and to attend the same schools. This amendment was voted down on February 9, 1872, by 38 yeas and 19 nays. Then, on May 8, 1872, Sumner again attempted to attach another civil rights bill to a general amnesty bill, which failed.

In 1874 Sumner offered another of his civil rights bills to Congress. The purpose of this bill was to give Negroes equal privileges in hotels, theaters, railway cars; Sumner wanted to include in his bill schools, churches, and cemeteries, but Congress refused to go that far. Sargent, of California, offered an amendment to Sumner's civil rights bill providing that any school district or State may be allowed separate schools. Edmonds, of Vermont, opposed this amendment by saying that the States already had separate schools for the Negro and whites. Blair, of Missouri, offered an amendment to Sumner's civil right bill to permit each city, county, or State to decide whether it would have mixed or separate schools. Stockton, of New Jersey, thought that Negroes were entitled to equal rights and privileges but not necessarily be admitted to the same schools and cars. Frelinghuysen said that it was not one of the privileges of citizens of the United States to have an education, visit inns but it was one of his privileges not to be discriminated against because of race or color. Hereford, of West Virginia, introduced a resolution in the House which declared that it would be contrary to the Constitution and a usurpation by Congress to force fixed schools upon the States or pass any law interfering with churches, public carriers, such subjects belonging to the States. This civil rights bill became law in 1875. Carpenter, of Wisconsin, voted against this bill on the ground that Federal Government did not have the power to regulate or to organize the juries of the States.

Seven years after the 14th amendment was declared to have been adopted, Butler, of Massachusetts, introduced a civil rights bill which stated that no person or corporation should make any distinction in admission or accommodation of any citizen on account of race, color, or previous condition of servitude to any public inn, place of amusement, or entertainment for which a license was required, stage-coach, railroad, or other public carrier, cemetery, benevolent institution or public school wholly or partly supported by taxation. The authors of these two civil rights bills were two of the severest critics of the South; and if the purpose of the Civil Rights Act of 1866 and the 14th amendment had been integrated schools, obviously these two Congressmen would not have offered duplications. These two bills, however, failed of enactment with the section pertaining to schools in them. Thus as late as 1875, Congress refused to enact into law any bill requiring integrated schools. About the 14th amendment, Chief Justice Warren said, "what others in Congress * * * had in mind cannot be determined with any degree of certainty." Again it may be pointed out that the Chief Justice is a better politician than a historian or a jurist.

The franchise had been granted to the Negro in only six States: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and New York, north of the Mason-Dixon line; and these States had only a sprinkling of Negroes. In 1865 three northern States, Minnesota, Wisconsin, and Connecticut, refused to grant the franchise to the Negro. In the District of Columbia, 6,521 votes were cast against Negro suffrage while only 85 were cast for it in December of 1865. "In Ohio, New York, and Pennsylvania, the right of the Negro to vote was limited." In a large majority of the States, including the most populous, Negro suffrage was then prohibited. In a speech in the Senate on February 26, 1866, while the framing of the 14th amendment was being completed, one Senator said " * * * Why not complete the work so gloriously done by our soldiers by securing union and liberty to all men without distinction of color, leaving to the States, as before, the question of suffrage." More than 20 years after the ratification of the 14th amendment, John Sherman, of Ohio, said, " * * * there was a strong and powerful prejudice in the Army and among all classes of citizens against extending the suffrage to Negroes * * * In the South where the great body of slaves were in abject ignorance * * *. It must be noted that the Wade-Davis bill before Congress did not and would not make Negro suffrage a part of

its plan * * *. Even so radical an antislavery man as my colleague, Senator Wade, did not propose such a measure."

The following anomaly is very peculiar. On June 25, 1868, Congress passed an act to readmit six Southern States when these States "shall have * * * ratified * * * the 14th amendment" and complied with the "fundamental conditions" already imposed on Arkansas. The Congress had all along held that the Southern States were in the Union. Now these States were in the awkward position of being in the Union when they ratified the 13th amendment and immediately expelled from it by the Congress when these States rejected the 14th amendment. Not before or since has the Congress assumed the power to expel a State or States from the Union for rejecting an amendment. If this assumption of power by the Congress were lawful, then the Congress could destroy the Union by merely removing the several States from their relationship to the National Government. The Constitution does not grant Congress the power to alter the equality of States. Inference of equality of States extends throughout the Constitution and under no other conditions would the Thirteen Original States have ratified this document. As a condition for readmission to statehood, the 10 Southern States must ratify the 14th amendment, which they eventually did while out of the Union. The Southern States were in the peculiar position of being expelled from the Union by the Congress and forced to ratify the 14th amendment while they were out. Since the Constitution provides that States in the Union only may vote on amendments, Seward was correct in his proclamation when he doubted that Arkansas, Florida, North Carolina, South Carolina, Alabama, and Louisiana had legally ratified the 14th amendment. The Constitution did not give Congress the power to place a State in or out of the Union at will.

Members of Congress talked freely of impeaching judges of Federal courts for decisions contrary to the acts of Congress. A bill was introduced in the House to require a unanimous decision of the courts involving acts of Congress. In a speech before the House, a Congressman said that if the Supreme Court proposes to interfere with the will of Congress, let us "sweep away at once the appellate jurisdiction in all cases, and the abolition of the tribunal itself." When cases were appealed to the Supreme Court that would involve Congress or its reconstruction legislation, Chief Justice Chase said that it was wise to claim that the courts lacked jurisdiction. Based on the *Milligan* case, little doubt could exist that the reconstruction acts would have been declared unconstitutional. In *ex parte Garland* and others, the Court boded ill for reconstruction; leaders in Congress did not conceal their purpose of attacking the Supreme Court if further provoked.

Within a few years the courts had grown bolder and in 1878 the Supreme Court held that the 13th, 14th, and 15th amendments must be construed "not as settling up new and comprehensive systems of national rights and jurisdiction, but as having for their primary, if not exclusive, purpose to secure and protect the freedom of the Negro." In the *Slaughter House* case, Justice Miller said, "On the most casual examination of the language of these amendments, no one can fail to be impressed with the one prevailing purpose found in them all, lying at the foundation of each, and without which none of them would have been suggested; we mean the freedom of the slave race, the security and firm establishment of that freedom and the protection of the newly made freeman and citizen from oppression of those who had formerly exercised dominion over him * * * all the ordinary civil rights enjoyed by citizens were still within the control of the organs of State government and not within Federal protection at all. We are convinced that no such results were intended by the Congress which proposed the amendments not by the legislature which ratified them." In the *Civil Rights Case* of 1883, the Supreme Court held that the 14th amendment was too narrow in its intentions for Congress to enact a code of social relations with the South.

As a yardstick of public opinion against congressional reconstruction, the elections of 1868 showed a definite trend. New York and Pennsylvania were lost to the Radicals and Ohio defeated a Negro suffrage amendment by 50,000 votes. The Democratic Convention, New York, July 4, adopted planks in their platform which condemned the so-called reconstruction acts as "unconstitutional, revolutionary, and void," and demanded that the States be restored immediately to their rights and the franchise be left in the hands of the States. In the presidential election, Grant received a majority of 800,000 votes in a total of 5,700,000. The newly enfranchised southern Negroes cast 650,000 votes for him. It is certain that the Negro, carpetbagger, and scalawag gave the majority of the popular

votes and very probably the election. Although Congress coerced the executive and intimidated the judicial branch of the Government, the people voted the way they believed, that the reconstruction program was unconstitutional.

The opinions of the Supreme Court by men contemporary with the 14th amendment and the opinions of the historian and authorities on constitutional history are at considerable variance with the reported opinion in 1948 of Chief Justice Vinson in which he said:

"The historical context in which the 14th amendment became a part of the Constitution should not be forgotten. Whatever else the framers sought to achieve it is clear that the matter of primary concern was the establishment of equality in the enjoyment of basic civil and political rights and the preservation of these rights from discriminatory action in the part of the States based on race and color."

This paragraph consists of two sentences. In reply to the first, the 14th amendment was never adopted; it was defeated. In the second, the intent and purpose of the 14th amendment, based on Congressional Globe and Congressional Record, constitutional authorities and court decisions, is far removed from the opinion of Justice Vinson.

In the *Kansas et al.* segregation case, based on the 14th amendment, before the Supreme Court, Justice Burton and others on the bench appear to be of the opinion that the social and economic changes over the past 75 years makes necessary new and different interpretations of the Constitution. For any court to give new and different interpretations of statutes and constitutional amendments from the original intent is legislative in character. The Constitution provides that "all legislative powers herein granted shall be vested in a Congress of the United States." The people and the Congress enact the laws; the courts administer them. When amendments and statutes serve their intended purpose, the people and Congress shall alter them, not the courts by giving new and different interpretations.

A preponderance of evidence exists to show that integrated schools was not the purpose and intent of the Members of Congress who cast their votes for the 14th amendment; the U.S. Supreme Court could have held, with equal judicial propriety, that the earth is flat based on the 14th amendment as it could have that this amendment required integrated schools. Johnson, Maryland, June 8, 1860, said, "In common with every Senator, I am, as I should be, desirous of having these constitutional amendments made as plain as language can make them, so as to avoid the evils that result from the existence of any ambiguity."

The congressional leaders said that the dictum of this amendment expressed exactly and precisely their purpose and intent. If the 14th amendment may be so construed, then other amendments may likewise be so construed. Without going further than where they now are, the Federal courts may hold that freedom of religion, of the press, or speech, and the right to peaceably assemble does not exist any longer or to place new constructions upon other amendments so as to nullify their original intent and purpose. The Members of Congress who framed the 14th amendment said repeatedly that the purpose of this amendment was to grant citizenship, to make the first eight amendments, those adopted November 3, 1791, binding upon the States and to make the Negro equal before the law as to life, liberty, and property.

That we have integrated schools is much less important than the usurping constructions placed upon our Constitution by the Federal judiciary. The rights, immunities, and privileges of the American people are in great jeopardy. Dean Wesley A. Sturges, Yale Law School, said that "the Court had to make the law;" and that is exactly what the Court did, for there is no other basis for such a decision.

That the U.S. Supreme Court would hold for integrated schools based upon the 14th amendment is incapable of being grasped by the mind. This decree shows a complete and utter lack of knowledge of the history of this amendment; moreover, it shows that a political party or a strong political leader may completely dominate the judicial branch of our Government. This decree shows the frailty and weaknesses of the human mind when political pressure has been applied and the possessor of these minds feel that they are beyond the immediate grasp of the people. Neither another administration that has so completely dominated the Federal judiciary nor another Federal judiciary that has so completely succumbed to political pressure can hardly be found in American history. Also the historian would be hard put to find another Federal judiciary that has so nearly Europeanized the American Union by erasing the original

State boundaries and other lines of demarcation by subordinating the creator to the created than the present Federal judiciary. Under these new and different interpretations of the Constitution, the judicial decisions have all the earmarks of political expediency. That the purpose of the integrated school decision was to attach to the Republican Party all the minority groups was obvious.

In the integrated school decision, Chief Justice Warren said: "In the South, the movement toward free common schools, supported by taxation, had not yet taken hold. Education of white children was largely in the hands of private groups." Those who framed the Civil Rights Act in 1866 and the 14th amendment said that these were aimed at the South; and since the South did not have a system of free common schools, a fact admitted by Chief Justice Warren, supported by general taxation, then obviously mixed or integrated schools was not one of the objectives of this amendment. Ample evidence exists in the Congressional Globe and the Congressional Record to show that public education, either North or South, however, had no part in the Civil Rights Act and the 14th amendment. If mixed schools had been an objective of the 14th amendment, then it would be interesting to know why the authors of these civil rights bills in 1871, 1872, 1874, and 1875 provided for mixed schools. Also if the radical Congress favored integrated schools, then it would be interesting to know why these civil rights bills were rejected when common schools were included in them. Facts do not support the contention of the U.S. Supreme Court that the 14th amendment precludes segregated schools.

A. CONCLUSION

The Congressional Globe, was the official record of the Members of the 39th Congress who framed, voted upon, and of the 40th Congress who later declared the 14th amendment adopted by concurrent resolution. The Globe contains the speeches and the debates on this amendment. These speeches and debates were lucidly and succinctly expressed. The student of history has no difficulty in determining the purpose and position of the Members of Congress on the different civil rights bills and the 14th amendment. The authors of these civil rights bills and the 14th amendment said these were expressed as lucidly as they knew how to use the English language. The assertion made by the Chief Justice of the U.S. Supreme Court that "what others in Congress and the State legislatures had in mind cannot be determined with any degree of certainty" was an admission that the 14th amendment could mean anything or it could mean nothing, depending on the mood of the Court and the pressure brought to bear on its members. The Constitution has now become as unstable as the pendulum of a clock which swings from one extreme to another. And what is still worse is that the American public knows it. Confidence has been lost; suspicion has been aroused. Correctly, the Chief Justice says "• • • it is not surprising that there should be so little in the history of the 14th amendment relating to its intended effect on public education," for integrated public education was not one of the objectives of this amendment; and therefore, nothing should have been said about it.

Considerable courage would be required of any Federal court to hold that Garfield of Ohio, Johnson of Maryland, Howard of Michigan, Trumbull of Illinois, Sumner of Massachusetts, Stevens of Pennsylvania, and a host of others were so incoherent in their speeches and debates that what they "had in mind cannot be determined with any degree of certainty." In speaking of the 14th amendment, 3 years after it was adopted, Trumbull said, "The States were, and now are, the depositories of the rights of individuals against encroachment." Garfield said, "the 1st section of the 14th amendment was a limitation of the powers of the States to legislate unequally as to life and property and that was the interpretation placed upon this amendment by Stevens and almost all the Republicans in Congress." What Garfield and Trumbull thought of the 14th amendment may be determined with considerable "certainty."

For the Supreme Court to hold that Negroes and whites must attend the same schools, mix at amusement centers, and share the same seats on buses and trains was an arbitrary assumption of power not conferred on the courts by the Constitution. And when any branch of an established government becomes tyrannical and usurps power, it then becomes the duty of the people in whom all power lies to withdraw this power conferred on the offending branch and cast it away.

1. The resolution proposing the 14th amendment failed to pass both Houses of Congress as provided for in the Constitution.

2. The 14th amendment failed to be adopted by three-fourths of the States as required by the Constitution.
3. Eleven States were forcibly excluded from taking part in the framing of the 14th amendment, contrary to the Constitution.
4. Ten States were placed under military regime and people foreign to these States and Nation adopted this amendment.
5. Therefore, the 14th amendment was not a valid part of the Constitution.
6. And all judicial decrees based upon the 14th amendment are null and void.

B. PURPOSE

1. The radicals intended to Republicanize the South.
2. The 14th amendment was the platform for the election in 1866.
3. The radicals planned to keep the South in subjection.
4. The South would provide remunerative offices for Republican leaders.
5. The 14th amendment would provide revenge for certain groups in the North.
6. The 14th amendment would protect the freedman's life and freedom and give him justice in court.

C. INTENT

Not one iota of evidence exists to show that the 14th amendment intended to do more for the Negro than to safeguard his life, protect his freedom, and to give him justice in court. No evidence exists that would tend to show that the framers of the 14th amendment intended to set up a system of basic civil and political rights for the Negro. No evidence exists that tends to show that the State legislatures that ratified or rejected the 14th amendment contemplated a system of basic civil and political rights for the Negro.

STATEMENT OF JACK M. LOWERY, ATTORNEY, LOUISVILLE, KY.

As a practicing attorney in Louisville, Ky., whose clients in the restaurant and tavern industry are faced with the problem of racial unrest that is of such vital and urgent concern to us all, I am grateful for the opportunity to present their side of the problem to this committee.

It is not my intention to engage in a discussion of the constitutional issues involved in the proposed legislation you are now considering. You, of all men, do not need my reminder that governmental regulation is invariably used as authority to justify further regulation; that the liberty of our own people may be destroyed with equal finality by legislation offered for the noblest, as well as the basest motives. It is rather my purpose to relate to you what might be called "the other side of the Louisville story."

While several of the restaurants and taverns that I represent have a substantial business volume, the vast majority are small neighborhood businesses which operate on a small margin of profit and which represent the sole support of the owners and their families, most of whom have invested their life savings in those businesses. That these businesses depend almost entirely on the good will and continued patronage of their customers for economical survival is as obvious to my clients as it is to anyone else.

For this reason, when racial disturbances first occurred in Louisville some 8 years ago, immediate steps were taken to learn the economic impact of forced integration upon the restaurant and tavern industry generally. Inquiries directed to every conceivable source, from the National Chamber of Commerce to the Citizens Council of American were uniformly disappointing. There were no facts and figures available and so far as I have been able to determine, there are none available today of a definitive nature.

On March 20, 1960, however, the University of Louisville through its department of psychology and social anthropology attempted to gain insight upon the attitudes of our citizens regarding desegregation by conducting an opinion poll among the residents of Jefferson County.

Over two-thirds of those persons interviewed stated that they opposed forced integration by law. Even more significant was the fact that almost half of the persons questioned stated that they would not eat in restaurants where Negroes were also served.

As the pollsters pointed out, however, this data is merely evidence of what people think they will do. It is one thing to be broadminded in theory, another

in practice. It is one thing to be opposed to Negroes attending movies, it is another to actually refrain from attending a theater because Negroes are admitted.

Actual business experience, however, tends to confirm the survey. Receipts of municipally owned swimming pools in both Louisville and nearby Shelbyville show a drastic reduction following integration. The Switow Theatrical Agency was compelled to actually close its theater in adjoining Jeffersonville and the theater in neighboring New Albany continues 50 percent off in its receipts following integration. Private pools and private clubs have been established at a phenomenal rate.

Even more to the point, however, is the fact that the customers of my clients continue to express, in numbers too substantial to ignore, their intention to patronize private clubs rather than the traditional neighborhood tavern-restaurant in the event of integration. There is much more involved here than mere prejudice. There is the conviction that a breeding ground of violence and bloodshed is where alcohol and forced integration are mixed.

While these grave objections to the administration proposal are not lightly to be glossed over, I would like to turn your attention to what I feel are the underlying causes of the racial unrest that is of such common concern to us all.

As an attorney who has represented the restaurant and tavern industry in its attempts to cope with this problem, let me be the first to confess that not all of my clients nor their customers have been able to forget overnight the practices and prejudices of many years. We recognize and agree with the proposition that ideally, mutual respect and understanding should be the basis of all relationships with our fellow men. No reasonable man can doubt, however, that the removal of prejudice and misunderstanding must come from within the hearts and consciences of men. The plain truth of the matter, as anyone knows who considers it, is that men cannot be forced to love and respect their fellow men by even the most stringent governmental edict. If moral changes could be effected so easily, let me assure this committee that I would be the first to applaud the enactment of such laws. The very fact that some of the most dangerously explosive manifestations of racial unrest have occurred in a number of the States where so-called antidiscrimination laws have already been in force for many years is a graphic illustration that racial harmony cannot be achieved by governmental edict. To cite an analogous example from recent history, the fate of the 18th amendment affords eloquent testimony of the inevitable difficulties in enforcing any law about which the people hold sharply divergent moral and personal opinions.

Is there any more dramatic example that effective legislation on controversial moral issues must be responsive to the will of the people?

When the racial unrest that is now a surging torrent was a mere trickle of isolated "sit-ins" 3 or 4 years ago, those of us who expressed our concern were met with the reassurance that these "demonstrations" were patterned after the "passive resistance" techniques of Ghandi. Is there any fairminded person who can point to the slightest resemblance between the lawless mobs who are surging, thousands strong, in tumultuous uproar through the thoroughfares of our cities and the silent, prayerful, and humble attitude of Ghandi and his followers?

The people of America are daily subjected to a proposition that is advanced in all earnestness and sincerity—a proposition that I believe is incredible. We are told that of all the domestic and international issues which vitally affect the interest of this Nation, the civil rights issue stands alone as the one about which there can be no honest disagreement; no delay; and no compromise. Anyone foolhardy enough to suggest that reasonable and fairminded men may differ with either the methods or objectives of the Negro leaders is denounced as unformed, un-Christian and un-American. The leaders who have been responsible for fomenting the "demonstrations" have delivered an ultimatum which says, in effect, that if their demands are not met immediately, totally and unconditionally, they will take to the streets in countless thousands even at the risk of bloodshed and violence.

The conclusion is inescapable that the irresponsibility of some Negro leaders is as much a cause of racial unrest as any prejudice or misunderstanding which exists in the minds and hearts of white citizens.

In my own attempts to negotiate a peaceful solution on behalf of my clients to the problem of racial unrest I myself have come up against this militant and adamant refusal to explore peaceful conciliation. Some 2 years ago in Louisville demonstrations against private businesses had reached the point that our

local police department was unable to effectively cope with the situation. I first was employed in this matter some 10 days before the running of the 1961 Kentucky Derby, an event which brings tens of thousands of visitors into our city. Upon discussing this matter with the chief of the Louisville Police Department, I learned that the facilities of our police are strained to the breaking point on these occasions in an effort to simply handle traffic. Our police department was at a complete loss as to how any protection could be afforded any of our residents or guests in the event of extensive demonstrations. I immediately sought and was granted an interview with the Negro leadership, including representatives of the NAACP and CORE.

At this meeting I made a strong and urgent plea for a cessation of demonstrations during the weekend of the Kentucky Derby, pointing out to these individuals the very real danger of bodily injury to innocent persons. The group unanimously and uncategorically refused to agree to this request. They stated that their people were excited to such a pitch of frenzy that no fear of arrest, authority, or other considerations would stop them. My offer to meet with them to negotiate and discuss possible solutions to our problems immediately following the derby was flatly rejected. As a result, we had no alternative but to go into court and to seek an injunction to stop these activities. The testimony and affidavits which were introduced in evidence, of which the attached affidavit is typical, established beyond dispute that in actual fact the so-called passive demonstrations had taken the form of lawless riots which blocked public sidewalks, as well as private entrances, and in which the filthiest obscenities imaginable were commonplace. As the result of this testimony, the Jefferson circuit court had no alternative but to restrain and enjoin these defendants from this lawless activity. Although comparatively few people in our community are aware of this fact, because of the slanted news coverage by the local press, it was this injunction that brought about and protected the peace in Louisville.

There can be no question that demonstrations provided the initial impetus toward integration in Louisville. There is equally no doubt, however that these activities rapidly degenerated into the deplorable conduct which we experienced and which the rest of the country is now witnessing.

In the period of peace which followed the injunction my clients made no effort whatsoever to rally businesses together under a segregationist standard or to dissuade the businessmen of our community from doing anything other than following their own independent business judgment as to the question of integration or segregation of their businesses. During this period so much voluntary progress was made that Louisville was often cited as an example of a city with an outstanding record in racial relations. Despite this fact, there was almost no opportunity for any communication between the integrationist leadership and the owners of private businesses who had failed to integrate. A Human Relations Commission was established for the ostensible purposes of assisting voluntary integration and we rather naively proposed that one of our representatives be included on the commission. This offer to serve was flatly rejected by the Louisville Courier-Journal and the Negro spokesmen in a storm of protest. Although none of our members were ever invited or encouraged to utilize the services of our Human Relations Commission or to even exchange ideas and information with its members, this group almost immediately concluded that the conciliation and negotiation procedures for which it had been formed were futile and that an ordinance requiring compulsory integration was an immediate necessity. Without warning, a mayor who was elected to office on a platform of personal opposition to any such ordinance, sponsored and secured its passage by our board of aldermen. Not to be outdone, only weeks later, the Governor of Kentucky issued a so-called executive order requiring compulsory integration in all businesses and professions holding any kind of State license, permit, or certificate. The Governor's order is so patently invalid that it was even denounced by some of the Negro leadership.

(It should come as no surprise that invalid executive edicts and intemperate legislation are the inevitable products of an atmosphere of panic which fosters and encourages extremists to threaten violence and bloodshed unless their demands are met immediately, totally and unconditionally.) In view of Kentucky's outstanding record in the field of civil rights, one might well ask—Why was such an order and such an ordinance necessary? The only reason for the passage of such measures in Kentucky has been the spineless and almost unbelievable proposition that unless we do so, demonstrations may result. To us the passage of a law because of the fear of a mob, either real or potential, is unthinkable.

As a practicing attorney, who has seen that the courts of Kentucky, at least, will deal swiftly and effectively with those who threaten lawlessness and violence, I have not lost confidence in the courts of our sister States to such an extent that I will ever concede that they cannot also control these demonstrations.

The lawful avenues of influencing governmental policy and public opinion which are open to our farmers, businessmen, and laboring people are also open to our Negro citizens who feel that they have legitimate grievances which justify redress. They, like other citizens with special problems, can petition our legislatures by letters and telegrams, by press and radio, and by public meetings in hired auditoriums. Our courts are open to them; and if all else fails, they have the right of every citizens to register their approval or disapproval of our government officials in the voting booth. To insure the Negro citizen of the free exercise of these rights is a matter to which the Federal Government should direct its attention.

The greatest single danger in the public accommodations feature of the administration proposal is its consideration in an atmosphere of fear. If the merits of this bill outweigh its dangers, then let it be passed because of its merits alone and not because its passage is felt to be the only alternative to lawlessness.

Finally, in considering the passage of legislation to improve the lot of our colored citizens, let us be careful not to destroy the equally fundamental rights and liberties of others. The stampede for automatic approval of any legislation bearing a civil rights label, regardless of its fault or virtue, will little avail us if we obliterate the rights and freedoms which are the bedrock of a free republic:

No. _____

JEFFERSON CIRCUIT COURT

CHANCERY BRANCH, FOURTH DIVISION

ROBERT P. WHITEHOUSE, ET AL., PLAINTIFFS, VS. FRANK D. STANLEY, JR., ET AL.,
DEFENDANTS

AFFIDAVIT

Before me, the undersigned authority for the administration of oaths of this nature, personally appeared Ralph F. Grove, who first being duly sworn, deposes and states as follows:

On Monday, April 24, 1961, at about 4 p.m., approximately 40 to 50 Negro persons, most of whom appeared to be minors, came onto my premises, located at 456 South Fifth Street, Louisville, Ky., and known as the Kuple Doubleburger. They scattered out in such a way as to occupy every booth and every stool. I immediately called the police after they refused my request that they leave. On this occasion it took the police almost 3 hours to arrive. While waiting for the police to arrive, several of these Negro minors directed the vilest imaginable language toward my white waitress. Several of them called her a "mother _____" and used other similar language. While waiting for the police, these Negro minors took my containers of sugar and poured them out upon the floor behind the booths. They put salt into the sugar and vice versa. They poured ketchup and mustard out over the booths and tables. The place was a complete bedlam and I was helpless to do anything to control it. Finally the police arrived and made approximately 40 arrests. While taking these 40 Negro minors to jail, great numbers of other Negroes came to the scene. They chanted and made a great amount of noise. They blocked my door and in a scuffle they went on outside, one or more of them whose identity I do not know, broke a large window which I have next to my entrance. This mob remained outside my place of business until 9 p.m. that evening. As a result of this mob my premises, including the booths and the windows, suffered about \$75 of actual physical damage. The loss of business earnings would run into hundreds of dollars. Not only did I lose my business for the afternoon and evening described, but many of my customers have told me that they are afraid to come back in for fear of another such attack.

(S) RALPH F. GROVE, Agent.

STATEMENT OF THE NATIONAL CONFERENCE OF THE METHODIST STUDENT MOVEMENT

My name is Lane C. McGaughy, president of the National Conference of the Methodist Student Movement. The Methodist Student Movement is the arm of the Methodist Church on college and university campuses and has a constituency of several hundred thousand students. At their direction, I am making this statement in support of the bill entitled S. 1732.

The National Conference of the Methodist Student Movement met from June 16 to 22, 1963, at Ohio Wesleyan University and endorsed the following resolution:

Because we believe the President's proposed Civil Rights Act of 1963 to be the most significant legislative step yet taken in the direction of rectifying racial injustices, we endorse this legislation and urge its immediate passage. * * *

As a Christian body, we believe that discrimination and racial injustice are irreligious and immoral: God is the Father of all mankind and to sin against one of His children is to sin against God. We believe that racial discrimination in public accommodations is one major manifestation of man's inability to live together with his fellow man. Before all of God's children can live in harmony and love, however, laws must be established to provide conditions that prevent the manifestation of man's sinful tendencies. In other words, enforced justice " * * * is the way love goes about creating conditions for its entrance into a sinful world." (Sellers, James E., "The South and Christian Ethics." New York: Association Press, 1962, p. 164.) Hence, we strongly urge the passage of S. 1732 as a step in this direction.

In light of our convictions, we of the Methodist Student Movement have initiated many actions at our June meeting to further desegregate our own church and to aid in the civil rights struggle as a whole. May we all join together in making our country the model of freedom and justice for all of its citizens.

STATEMENT OF THE PHYSICIANS FORUM, INC., BY EDWARD L. YOUNG, M.D., NATIONAL CHAIRMAN, AND BEN SELLING, M.D., CHAIRMAN, MASSACHUSETTS CHAPTER

Physicians Forum, Inc., a nationwide organization of progressive physicians has long been concerned with the improvement and better distribution of medical care. To this end we have worked toward eliminating discrimination because of race or color in the health fields.

We therefore wish to add our support to S. 1732.

The provisions in title II will insure that no longer can hospitals in this country be closed to sick people because of race or color.

The impaired health of Negro citizens directly resultant from lack of access to such facilities is further impaired by economic deprivation, a state which can be improved under the fair employment portion of the bill.

Prohibition of discrimination by any recipient of Federal aid will wipe out the "separate but equal" clause in the Hill-Burton Act.

Of particular concern to us is discrimination within the medical profession. Although one might expect a learned and respected profession to rise above such prejudice, it is a matter of record that discrimination against Negro physicians by his white colleagues follows the same pattern as discrimination against Negroes in all other fields. Denial of membership in State and local medical societies, principally in the South, excludes the Negro physician from use of his community hospital (which generally requires that he have medical society membership). It further isolates him from normal professional and scientific contacts. Thus, even the small number of Negroes who have survived the economic demands of a medical education find themselves blocked at every turn from exercising and improving their professional skills.

Though the American Medical Association prohibits race or color as a condition of membership, it is open only to physicians permitted to join State or local societies. Thus Negroes are excluded from the AMA by virtue of local decisions over which the AMA considers itself without jurisdiction.

We expect that the medical profession will desegregate only when the Government of the United States causes desegregation to be the law of the land.

S. 1732 will be of great importance in helping to correct this condition.

The physicians forum thinks it is of the greatest importance to the future welfare and strength of the country that this bill be passed.

STATEMENT OF WALTER P. REUTHER, PRESIDENT, UNITED AUTOMOBILE WORKERS AND INDUSTRIAL UNION DEPARTMENT, AFL-CIO

My name is Walter P. Reuther. I am president of the International Union of Automobile, Aerospace, and Agricultural Implement Workers and of the Industrial Union Department of the AFL-CIO, and I appear here today on behalf of both organizations. We appreciate this opportunity to present our views to this committee and to urge you to report out a bill at least as strong as President Kennedy's S. 1732 and, if possible, a stronger bill.

One of the special purposes of the Senate Commerce Committee is, of course, to see that nothing impedes the smooth movement of traffic across the borders of our various States. Today this function takes on enormous importance in human terms. It is not the movement of merchandise you are asked to expedite and protect, but the movement of people. The decision you are asked to make in S. 1732, to eliminate discrimination in places of public accommodation, is a decision aimed at insuring for our people the elementary right of travelers throughout the world to find rest, food, and relaxation. You are asked to protect the people's right to move about anywhere in this country and to enjoy whatever public accommodations they can afford without fear of insult because of race, color, religion, or national origin.

You have an opportunity here to affirm the essential promise of democracy that all men are equal. You will not be true to yourselves or to that promise if you fail to seize this opportunity.

The eyes of the Nation are upon your committee. If this committee reports out the President's bill, strengthened if possible, it will do much to strengthen the faltering belief among some segments of our population that injustices can be remedied through legislation. But if you compromise one principle of this bill, if you weaken it one scintilla, you will have failed a nation urgently looking to you for leadership.

It is true that S. 1732 embodies only one part of the President's civil rights program. But it is the most pressing part. Some measure of its significance can be grasped from the fact that when the President on June 10, confronted by the growing moral crisis in American race relations, sent his omnibus civil rights proposals to Congress, he put public accommodations first on his list of areas in which he asked you to act. This choice of emphasis seems entirely right to us.

Discrimination in public facilities has been a national disgrace for far too long; by ending it now, by protecting every human being from Maine to California against the colossal indignity of a refusal of service, the 88th Congress will only be catching up at long last with the 44th Congress which sought to end discrimination by enacting just such a law as long ago as 1875. We can never recoup the loss to democracy in these long years of discrimination against Negroes. But we can—and we must—stop it now.

One good way of measuring the validity of any proposal is by taking a good look at the arguments being made against it. Even the most cursory examination of the current arguments against the public accommodations bill will demonstrate that they are shallow in content and defeatist in spirit. These voices of the past must not be permitted to thwart the will and vision of a nation ready, willing, and anxious for true equality.

Some say the public accommodations bill is unconstitutional. But what of the Commerce Clause of our Constitution, that firm base on which most of our economic legislation has long been predicated? Can anyone seriously argue that Congress has power to regulate the color of the margarine that goes on the restaurant table but not protect the rights of a citizen of color to sit at that table? And what of the 14th amendment, which gives Congress express authority to implement the right to the equal protection of the laws?

I am not a lawyer, but the impression I have from the newspaper accounts of these hearings is that there is so much constitutional underpinning for this bill that most people are arguing whether to predicate it on the Commerce Clause or on the 14th amendment. To the Negro and his family who have been traveling all day, it is a legal quibble as to whether the right to a night's lodging is based on one or the other. I know what we would do in a collective-bargaining situation. If we had two good arguments in support of our case we would simply use both of them. I respectfully suggest to your committee that the same principle might go pretty well here.

There is very direct precedent for combining the Commerce Clause and the 14th amendment as the constitutional underpinning for the President's civil

rights program. The Tennessee Valley Authority was based on three constitutional powers—the war power, the navigation power, and the right to dispose of property. The Holding Company Act and the Securities Exchange Act were both based on the commerce and postal powers of the Constitution. It is time to stop arguing and start legislating.

Some say the bill interferes with property rights. But I refuse to accept the principle that our democratic society affirms a property right to discriminate against Negroes. Once a man holds out his property to the public, once he asks the public to deal with him, he cannot say his property is open to all members of the public except Negroes. Property rights are important in our society, but they must never be permitted to overshadow human rights and human dignity.

Some say it is unfair to cover Mrs. Murphy's roominghouse and that, therefore, we must exempt from the bill small public facilities of all kinds. But the conclusion does not follow the premise. The right to choose roomers in one's own residence is one thing; but this is the right to privacy in one's residence. It has no applicability to a small commercial hotel, a small restaurant, a bowling alley, or a barbershop. A Negro seeking service at a small lunch counter can be just as hungry as the one who stops at Howard Johnson's.

The public accommodations bill is too important to be compromised by limiting either the size or type of establishment covered or the means of enforcing the right to equal service. We need a public accommodations bill with teeth in it. Most proprietors of public establishments want to do the right thing, but they are concerned lest their competitors gain an advantage by continuing old discriminatory practices. A strong bill will let those who open their facilities to everyone do so with confidence that others will have to do likewise. Toward this end, we would urge that the committee consider, in addition to the sanctions now in the bill, a provision that anyone who has been wrongfully excluded from a public facility be entitled to recover a flat sum in damages. Not only the patron but the public-spirited proprietor will benefit from an enforceable public accommodations measure.

There is great good will in America in all parts of the country to do the right thing. The Deerfield prejudice of Illinois suburbia is just as evil as the Bull Connor prejudice of the South. Deep down in the hearts of most Americans there is the desire to do the right thing—but the right thing will not be possible in Chicago or Birmingham unless there are strong laws backed up by the power of the Federal Government.

Sweatshop employers a generation ago, and today, are a constant embarrassment to enlightened employers. Strong labor laws are welcomed by employers who want to do the right thing, and strong civil rights laws are welcomed by businessmen; labor unions, school boards, State officials, voting registrars, and others who want to do the right thing with respect to first-class citizenship for all Americans.

Prejudice is not an American product. In my travels around the world I have discovered that there is race prejudice in every land—India, Japan, the countries of Western Europe—yes, even in Africa. But, as Dean Rusk, the Secretary of State has said, more is expected of us because we claim more. The Declaration of Independence proclaims that all men are created equal and that all men have a right to equal opportunity. All that we are asking Congress to do today is to help make sure that these promises are guaranteed in a way that reaches up to the very best of the American dream.

Some day there will be a Federal code of civil rights which will protect every American, from birth to death, against discrimination in voting, in housing, in education, in employment, in public accommodations. Such a legal code of racial security will be the fulfillment of the promise of our forefathers that all men are in fact equal beings. Some day, after this code has been accepted by all Americans, prejudice will end and the code will fall into disuse. Such a code of civil rights will have set a standard of conduct that will make fair practices in all walks of life not only a rule of conduct but a condition of mind and of heart. This bill is far short of accomplishing all that needs to be done, but we must begin the crusade to reach that goal. One of the first steps is for your committee to report out this bill, S. 1732, strengthened to the best of your ability and your belief.

The question of civil rights and equal opportunity transcends the question of partisan politics because this is essentially a moral question that bears upon the relationship of man to man in a free society.

As an American, I stand for equal opportunity and full constitutional rights for all our people as a matter of morality, decency, and simple justice. I am

for civil rights and equal opportunity because freedom is an indivisible value and so long as any person is denied his freedom, my freedom is in jeopardy. I am for civil rights and equal opportunity because American democracy cannot defend freedom in Berlin so long as we continue to deny freedom in Birmingham.

We can make our own freedom secure only as we make freedom universal so that all may share its blessings. We cannot successfully preach democracy in the world unless we first practice democracy at home. American democracy will lack the moral credentials and be both unequal to and unworthy of leading the forces of freedom against the forces of tyranny unless we take bold, affirmative, adequate steps to bridge the moral gap between American democracy's noble promises and its ugly practices in the field of civil rights.

There is no halfway house to human freedom. What is needed in the present crisis is not halfway and halfhearted measures but action bold and adequate to square American democracy's performance with its promise of full citizenship rights and equal opportunity for all Americans.

STATEMENT OF JOHN C. SATTERFIELD,¹ ATTORNEY, YAZOO CITY, MISS.

UNLIMITED FEDERAL CONTROL OF INDIVIDUALS, BUSINESSES, AND THE STATES— ANALYSIS OF THE CIVIL RIGHTS ACT, 1963

The proposed extension of Federal executive and administrative control over business, industry, individual citizens, and the States by the package of legislation called the Civil Rights Act of 1963, exceeds the sum total of all such extensions by all decisions of the Supreme Court and all acts of Congress from 1787 to June 19, 1963. When future generations look back through the eyes of history at this legislation they will recognize 10-percent "civil rights" and 90-percent extension of raw Federal power. It is "the Trojan Horse of 1963."

NOTE.—Although many of the major features of the Civil Rights Act of 1963 are unconstitutional on their face, this review is limited to a discussion thereof as if the proposals were constitutional and became law.

Never in the history of nations governed by elected officials has the head of any state demanded naked untrammelled power such as is embodied in this act, except when such state was upon the verge of becoming a dictatorship. If it is enacted the checks and balances set up by the Constitution of the United States will be destroyed. The States will be little more than local governmental agencies, existing as appendages of the Central Government and largely subject to its control. This legislation assumes a totally powerful National Government with unending authority to intervene in all private affairs among men, and to control and adjust property relationships in accordance with the judgment of Government personnel. It is impossible to prevent Federal intervention from becoming an institutionalization of special privilege for political pressure groups. This must lead eventually not to greater human freedom but to an ever-diminishing freedom.

Rare Federal power over individuals and business

There are more than 100 Federal agencies administering Federal financial "programs or activities by way of grant, contract, loan, insurance, guarantee, or otherwise." All acts creating such agencies and appropriating the moneys therefor are amended by this bill to give authority to administrative personnel to withhold, restrict, or deny participation in such programs or activities.

There are hundreds of thousands of professional men, individual businessmen, and small businesses not now engaged in interstate commerce nor subject to Federal control under the 14th amendment which affects only "State action." The control of those engaged in interstate commerce has been heretofore limited to legitimate business purposes. If this legislation is enacted and upheld, the Constitution of the United States would have been amended (or nullified) by the deadly combination of legislative and judicial action, and the basis would be laid for every individual who pays a license to the State or municipality and every private corporation organized under State law to become subject to control of Federal personnel to bring about sociological and political ends.

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The proposed legislation lays the groundwork for Federal control over business, industry, individual citizens, and the States, as follows:

By legislative definition, extension of the Interstate Commerce Clause far beyond present judicial definitions and legislative enactments.

Placing under Federal control every individual, corporation, or association which pays a license tax to a State or municipality, upon a congressional finding their every act is "State action."

Extending Federal control to every act of every private corporation formed under State statutes, upon the theory that States "license and protect" all corporations.

Granting Federal authority to exercise financial and other controls over "education at every level from grade school through graduate school" and authorizing the U.S. Commissioner of Education to supervise State and local education.

Authorizing manipulation of Federal financial assistance "in connection with any program or activity by way of grant-contract, loan, insurance, guaranty or otherwise" to control all persons "participating in or benefitting from" such programs. This includes all agricultural programs, construction and sale or leasing of homes, banks served by the FDIC, labor unions, industries having Government subsidies or contracts, veterans benefits, social security, etc.

Extending Federal control over all "general, special or primary elections held . . . for the purpose of electing . . . any candidate for public office."

Varying long-accepted and recognized judicial procedures to give Federal control over voting and education without a final adjudication or even a hearing.

Setting up a new Federal agency and extending powers of the present Commission on Civil Rights to exert Federal pressure against individuals, municipalities, and States.

Permitting sanctions and penalties by administrative action without judicial process. Where judicial process is provided, jury trials are denied.

Banks, savings and loan associations, and other financial institutions

Title VI amends every act of Congress "providing or authorizing direct or indirect financial assistance for or in connection with any program or activity by way of grant, contract, loan, insurance guaranty, or otherwise." The Federal Reserve System, the Federal Home Loan System, the banks and other institutions served by the Federal Deposit Insurance Corporation, small business loans, all loans such as VA, FHA, PHA, FNMA, and CHA loans are among the programs included. The blanket amendment covers not only the financial institutions, but their borrowers and customers who "participate in or benefit from the program or activity," including homeowners, businesses, realtors, developers, contractors and subcontractors, as well as municipal authorities.

All of these institutions and persons are placed under the control of such administrative agency or agencies as may be designated by Executive orders of the President or administrative regulations by the several agencies. Blanket authority is inherent in the act to provide sanctions, such as the calling of loans, the withdrawal of support of the FDIC, the withdrawal of credit by the Federal Reserve or Federal Home Loan Boards, the blacklisting for undetermined periods of banks, savings and loan associations, contractors, realtors, or any persons "participating in or benefitting from the program or activity." The authority as to contractors is not limited to Government contractors, but includes all contractors connected with any such program or activity.

The broad terms of the act would permit withdrawal of credit, support, or calling of loans and blacklisting of institutions by areas or States, regardless of the actions of individual entities. Financial life or death of almost every financial institution in the United States would be in the hands of one man, i.e., the President of the United States, and his appointees.

Every major financial establishment in the country would be transformed from a business institution to an institution for social and political reform, required to carry out the dictates of Federal personnel placed in charge of examining their procedures. The judgment of Federal inspectors appointed to bring about social reforms would supersede the judgment of the loan committees and would require that loans be made, contracts or businesses financed, and policies followed to prevent "discrimination" as found by the Federal agency. No judicial proceeding would be required. Administrative procedures would be used.

These financial institutions have contracts with some agency of the U.S. Government by which they participate "in the programs or activities in which direct or indirect financial assistance by the U.S. Government is provided by

way of grant, contract, loan, insurance, guaranty, or otherwise." Title VII places under Federal supervision and control "employees and applicants for employment" of all such contractors and prohibits discrimination in connection therewith. It creates a Federal FEPO called Commission on Equal Employment Opportunity. If it were found that the ratio of employment of stenographers, tellers, cashiers, vice presidents, and directors of such institutions did not conform to the ratio of Negroes available for such positions, it appears that conformity to the determination of Federal personnel could be required under the sanctions provided by unlimited Executive orders or administrative regulations.

Agriculture

This legislation amends every act providing "direct or indirect financial assistance for or in connection with any program or activity by way of grant, contract, loan, insurance, guaranty, or otherwise," in the field of agriculture. Under its terms the Federal agencies (or one to which the responsibility of administering this particular act is given by the President) may withdraw grants, call loans, withhold financing, withdraw supports, guarantees, and insurance or may discontinue programs, in whole or in part.

Among the programs affected are Farm Credit Administration, including Federal land banks and banks for cooperatives, Commodity Credit Corporation, Soil Conservation Service, Federal Crop Insurance Corporation, Farmers Home Administration, Rural Electrification Administration, Forestry Service, Agricultural Research Service, Extension Service, and the Agricultural Marketing Service.

This proposal authorizes issuance of Executive orders or administrative regulations, under which financing could be withheld, loans called, guarantees or insurance withdrawn, and programs discontinued in whole or in part upon an administrative finding that any "individuals participating in or benefiting from the program or activity are discriminated against on the ground of race, color, religion, or national origin." The President is given unlimited authority to prescribe conditions to be placed in "all contracts made in connection with any such program or activity" to assure that there shall be no discrimination in employment by any contracting party. Punitive action may apply to individuals, associations, areas, or States.

This act will also place under Federal supervision and regulation all establishments by farm organizations where goods, services, facilities, privileges, or advantages are held out to the public for sale, use, rent, or hire, which are "licensed or protected" by the State, i.e., pay a privilege license to the State, if they fall within a very greatly broadened definition of interstate commerce—far beyond the definitions adopted by the Supreme Court. Almost every farm organization in the country would be affected.

Federal intervention is authorized in the employment, advancing, and firing of employees by all persons having contracts in agricultural or other programs or activities affected directly or indirectly by Federal grant, loan, insurance, or guarantee. The act creates a Commission called Commission on Equal Employment Opportunity with unlimited powers "as may be conferred upon it by the President." Many of the penalties may be imposed by administrative action, without judicial process. Where a judicial proceeding is provided, the right of trial by jury is denied.

Business, industry, and professional services

Through a combination of (a) an unprecedented extension of the interstate commerce clause, (b) the application of Federal control to actions of every individual or corporation paying a license or privilege tax to a State (under the rejected theory that by the payment of such tax individual action becomes State action), and (c) the manipulation of Federal financial power, this act would constitute an extension of Federal power over individuals and business exceeding all that which has come about by judicial decision and congressional enactment from 1787 to 1963. The extension is so vast it can only be outlined briefly here.

All acts "providing or authorizing direct or indirect financial assistance for or in connection with any program or activity by way of grant, contract, loan, insurance, guarantee, or otherwise," are amended by title VI of the proposed legislation. All agencies administering all Federal programs or activities are granted authority by this act to withhold, restrict, or deny participation therein on the ground that discrimination is practiced by the person or business involved, by certain segments of the industry or business or within the area of the State in which the business or industry is located.

Under the definitions and classifications contained in title II, between 90 to 99 percent of the businesses in the United States would be subject to Federal control.

A partial enumeration of those businesses particularly mentioned by name in the act are retail shops, department stores, markets, drugstores, gasoline stations, restaurants, motion picture houses, theaters, stadia, exhibition halls or other public places of amusement, hotels, motels or lodging places, and any other establishment where goods, services, facilities, privileges, advantages, or accommodations are held out to the public for sale, use, rent, or hire. Even if the business does not fall within the broad definition of the act, it is covered if connected with and located contiguous to or on the premises occupied by an establishment so included. All lawyers, doctors, insurance agents, realtors, engineers, and other professional men maintain an office (establishment) where "services . . . are held out to the public for . . . use . . . or hire," they practice their profession by virtue of a license obtained from the State and pay State privilege license in many States. The broad definition of the act appears to include them. Every private corporation is organized under statutory authority. If the act is adopted the definitions contained therein would appear to draw every corporation (whether or not engaged in "interstate commerce" or paying a privilege tax to the State) into the theory of "State action" and subject the corporation to Federal regulation and supervision in every action taken by it.

The sanctions applicable and the penalties available for use against those found by Federal inspectors not to conform to the Executive orders or administrative regulations under the unlimited authority granted by the act, include those enumerated above in connection with financial institutions, such as blacklisting, cancellation of contracts or subsidies, calling of loans and cancellation of insurance or guarantees. Where these are inapplicable, fines and imprisonment may be imposed under injunction proceedings. A successful complaining party may be awarded attorneys fees, but a successful defendant may not recover such fees.

Education at every level from the grade school through graduate school

In his message transmitting the act to Congress, President Kennedy said: "I have heretofore requested the Congress and request again today the enactment of legislation to assist education at every level from grade school through graduate school." The following steps are proposed:

(1) Under title VI, Federal financial assistance to education would carry with it congressional approval of Federal control of education by administrative and Executive orders, without limitation, without judicial process, and without further legislative action. Assistance carries with it control. This is applicable to all existing as well as future programs.

(2) Vocational education in all of its major phases would be taken over by the Federal Government at an initial annual cost of between \$400 million and \$1 billion, if Congress enacts recommendations A through F of paragraph (2) of section III of the President's message.

(3) A radical and unprecedented departure from the *Brown* decision and all Supreme Court and other court decisions in the field of education is embodied in title III of the act. The Federal courts have recognized the right of State and local governments to administer their schools, but by orders and judgments in judicial proceedings have required admission to schools and colleges of qualified students who wished to attend, without discrimination on the basis of race, color, or creed. Title III would vest in the Commissioner of Education of the United States administrative control in this field of every public school and college board in the United States through (a) Federal personnel employed by him as specialists, (b) use of funds administered by him with unlimited right of conditions and restrictions, (c) special federally devised courses for teachers, supervisors, counselors, and other elementary or secondary school personnel, and (d) suits and injunctions instituted by the Attorney General in the name of the United States with penalties of fine and imprisonment.

(4) The power given the Commissioner of Education to bring about a removal of racial imbalance in public educational institutions at all levels in the United States is also a radical and unprecedented departure from all Supreme Court decisions. The use of Federal administrative authority to force (by means mentioned above) complete race mixing by the transfer and transportation of students from one school to another goes far beyond the court decisions.

(5) Control by the Federal Government of both State and local governments in the educational field is provided in title III, through the broad power conferred upon the Attorney General to bring suits against State and local governments without any actual limitation whatsoever. The wording used in section 307 (a) and (b) is designed to permit such suits in the sole discretion of the Attorney General.

Control of State and local electoral machinery

The act takes the first two steps in Federal control of all State, local, and Federal elections including any "general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for public office" within the United States. Section 101 modifies all State laws defining qualifications for voting. It transfers from local officials to federally appointed "voting referees" the registration and qualification of voters upon certain allegations being made in suits by the Attorney General without the necessity of proof. It ousts the jurisdiction of local officials under specified circumstances during the pendency of litigation and before trial. The Attorney General could move into sensitive areas just before a national election, register tens of thousands of voters whose votes would count, even if the appointment of the referees or the registrations were later set aside.

If this act is adopted the precedent will be set for Federal takeover of those steps in all State and local elections in the United States recommended by the U.S. Commission on Civil Rights on pages 15-24 of volume 6 of its 1961 report:

- (1) The qualifications of voters;
- (2) The registration of voters;
- (3) The establishment of voting districts;
- (4) The holding of elections and the counting of votes;
- (5) The establishment of electoral districts;
- (6) The authorization of Federal prosecution with penalties including fine and imprisonment) of State or local officials who, in the opinion of Federal personnel, are guilty of "any arbitrary action or (where there is a duty to act) inaction" in the area of registration, voting or counting of votes in any Federal election; i.e., complete Federal control of State and local officials.

The Federal FEPC

Title VII sets up a Commission "to prevent discrimination against employees or applicants for employment because of race, color, religion, or national origin by Government contractors and subcontractors, and by contractors and subcontractors participating in programs or activities in which direct or indirect financial assistance by the U.S. Government is provided by way of grant, contract, loan, insurance, guaranty, or otherwise". It must not be overlooked that "Government contractors and subcontractors" compose only a very small percentage of those covered.

Those who contract with the U.S. Government; i.e., who are contractors or subcontractors, in the programs and activities defined above include banks and savings and loans associations (FDIC, Federal Reserve System, deposit of Federal funds, etc.), persons entering into loan contracts through the FHA, VA, PHA, FNMA, and OHA, Federal Home Loan Board, Small Business Administration, Federal land banks, banks for cooperatives, production credit associations, Commodity Credit Corporation, Soil Conservation Service, Farmers Home Administration, REA, Area Redevelopment Administration and also Forestry Service, carriage of mail by airlines or railroads, subsidies of every kind, all colleges, high schools, and elementary schools which themselves or through their students directly or indirectly participate in Federal financial programs, to name a few.

Title VII creating the "Commission on Equal Employment Opportunity" does not remotely resemble the conventional State FEPC. Its powers are unlimited. They are described in the act as "The Commission shall have such powers to effectuate the purposes of this title as may be conferred upon it by the President." It includes not only the hiring of employees, but every element that goes into the relationship of employer and employee. Businesses could be required to go out and recruit Negroes, or Protestants or Catholics or Jews, to end the "racial imbalance" or "religious imbalance" found to exist by Federal inspectors. Complaint by individual employees would not be required. Examination of entire corporate or other business or school personnel could be made by the Commission on its own motion. The Commission could require removal of "racial imbalance" or "religious imbalance" at every level of employment from the laborer through the supervisors, the superintendents, the department heads,

the vice presidents and other officers, and the directors of corporations. Calling of loans, cancellation of contracts, withdrawal of FDIC, cancellation of Federal guarantees or insurance, denial of participation in any program followed by a blacklisting of the corporation or institution for 1, 2, or 3 years or more, revocation of licenses which had been federally granted—these are some of the sanctions which could be provided by Executive order. Assessment of damages, reimbursement, restitution, compensation, costs, charges, and fees could be included.

As to the authority of the Commission over the several million persons employed in all the ramifications of the U.S. Government, title VII contains one short sentence:

"The President may also confer upon the Commission such powers as he deems appropriate to prevent discrimination on the ground of race, color, religion, or national origin in Government employment."

Control of individuals

Under title VI complete authority is vested in the President or his administrative appointees to withhold, restrict, or modify every form of "direct or indirect financial assistance for or in connection with any program or activity" of the Federal Government. In a letter to the Civil Rights Commission dated April 10, 1963, concerning its proposal to withhold funds because of "discrimination," President Kennedy stated that such withholding of funds would include (using the President's words) "Social Security, veterans, welfare, school lunch, and other benefits from Federal programs." The proposed act amends every act of Congress "providing or authorizing" such programs and activities as veterans' benefits, veterans' and civil service pensions, social security benefits, all health, education, and welfare programs, every Federal benefit of every kind to every citizen of the United States, so as to permit manipulation of those benefits for the sociological and political ends described in the bill.

Millions of Americans are subjected to Federal control by this act. It is impossible to estimate the number.

Conclusion

The act not only clearly violates the Constitution of the United States by extending powers of the Federal Government beyond those permitted under the Constitution and destroying rights reserved to the States and to the people, but also by granting to the executive department powers which were intended under the Constitution to be within the realm of judicial determination and legislative action. It destroys the fundamental system of checks and balances set up in the Constitution. The act completely ignores the civil rights and civil liberties of homeowners, businessmen, professional men, and all persons other than the minorities whose political favor it curries.

The act reveals the master plan. If the whole is denied and parts are granted, the plan will be developed step by step through each succeeding Congress. If the whole is granted, the end is not yet. The President's message of June 10 states that "the enactment of the legislation I suggest will not solve all our problems."

The United States of America is at the crossroads. The action we take in the next few months may determine our course in all the years to come.

If you oppose this legislation, write your Senators and Congressmen immediately.

STATEMENT OF THELMA STEVENS, EXECUTIVE SECRETARY IN THE WOMEN'S DIVISION OF THE METHODIST CHURCH

The Women's Division of Christian Service of the Board of Missions of the Methodist Church with headquarters at 475 Riverside Drive, New York, N.Y., is the duly elected policymaking body of organized Methodist women. Policies are recommended to the 30,000 organized local societies and guilds with a total membership of approximately 2 million. Mrs. J. Fount Tillman, of Lewisburg, Tenn., is currently the national president of the division.

The women's division throughout its 23 years of official life has consistently supported National and State legislative and community programs for the achievement of civil rights. Action taken and local support recommended included such issues as voting, repeal of the poll tax as a prerequisite for voting, fair employment policies, open occupancy housing, support of goals and method of sit-ins, and other nonviolent efforts.

In 1962 the women's division adopted new goals for its charter of racial policies. These goals were recommended to the division's auxiliary groups in jurisdiction, conference, district and local societies, and guilds across the Nation. Hundreds of the units have ratified these goals and are at work to put them into practice. A specific ongoing program of promotion is underway constantly. Following are the goals or racial policy pronouncements under which the division operates:

"We will:

"1. Commit ourselves as individuals called by Jesus Christ to witness by word and deed to the basic rights of every person regardless of cost.

"2. Unite our efforts with all groups in the church toward eliminating in the Methodist Church all forms of segregation based on race whether in basic structure or institutional life.

"3. Create in local churches opportunities for inclusive fellowship and membership without restriction based on race.

"4. Act with other groups and agencies to involve families in new experiences with other races and cultures.

"5. Share in creative plans that challenge youth, students, and young adults of all races to new understanding of the church's mission and ministries.

"6. Interpret and strengthen recruitment and employment practices of the women's division consistent with our belief in the oneness of God's family.

"7. Open the facilities and services of all women's division institutions without restriction based on race and make such policies clearly known.

"8. Establish all schools of missions and Christian service and all leadership development and enrichment programs on a regional basis without restriction based on race.

"9. Seek to change community patterns of racial segregation in all relationships including education, housing, voting, employment, and public facilities.

"10. Work for national policies that safeguard the rights of all the Nation's people.

"11. Support worldwide movements for basic human rights and fundamental freedoms for peoples everywhere.

"12. Join with others who seek in church and community justice and freedom for all members of the family of God."

Goals 9-12 above provide a policy framework for support of the Civil Rights Act of 1963 by the women's division. The Members of the Congress are therefore respectfully urged to enact into law speedily this Civil Rights Act of 1963 without crippling amendments and changes. It is hoped, however, that special attention will be given to the addition of a national fair employment practices provision. This is a grave omission from what otherwise seems to be an inclusive package of the most crucial questions. It should be speedily remedied by an appropriate amendment that is strongly supported. The President has already indicated his support of such a national policy.

The women's division has already alerted its constituency to their responsibility in relation to the pending civil rights legislation and will continue to keep them informed as to the status of the bills and the votes of their Representatives and Senators on the issues.

STATEMENT OF NORMAN THOMAS, ON BEHALF OF THE SOCIALIST PARTY, U.S.A.

My name is Norman Thomas and I write on behalf of the Socialist Party, U.S.A. We are grateful for the opportunity you have given us to express our views to your committee and to the Congress.

The Socialist Party, which was founded in 1901, is proud of the many signal contributions it has made to American life. As the main pioneers of social thought in the United States in this century, we were the early proponents of many of the reforms that have been adopted in the past three decades, the minimum wage, public housing, social security, unemployment insurance, child labor laws, the National Labor Relations Act, and TVA, to mention some.

The Socialist Party has long regarded civil rights as the Nation's leading domestic problem. We have seen it as the area of American life most desperately in need of a great act of national conscience, yet our Government's policy

has largely been determined by outmoded 19th century concepts of States rights and the sovereignty of private property over human rights.

That some progress has been made seems to us as impossible to deny as it is useless to proclaim. For the amount of progress has been ridiculously minute when placed alongside the size of the problem.

Now, after a long and unconscionable delay, the President has placed before the Congress a set of civil rights proposals. In spite of their extreme lateness, they are a step in the right direction and we support them, as far as they go. But they do not go nearly far enough. There are whole areas of discrimination to which they are blind; as, for example, housing. In other areas they are much too timid, too cautious, not deepgoing enough to actually root out the cancer of racism.

It is incredible to me that leading Members of Congress, from both major parties, should at this desperately late-hour talk of these proposals as "too radical" and an "invasion of property rights." We warn that in the situation in which the country now finds itself nothing could be more dangerous than trivial concessions grudgingly given, which do next to nothing concretely to satisfy the just demands of the Negro people.

Let the Congress pass high-sounding but meaningless legislation that does not afford quick effective relief from the inequities of race discrimination and you invite trouble. Such a course will only result in deep frustration out of which will come a mood of disbelief in the very method of legislative action as a way of remedying the ugly injustices that exist. That mood, in turn, will strengthen the irrational, racist, and authoritarian tendencies already in existence in embryonic form in the Negro community.

That the current administration is faced with this choice stems from its refusal to fully confront and meet the basic issue—the demands of Negroes for immediate and complete elimination of all forms of discrimination and segregation. The five main civil rights organizations have long fought for such a program and have provided militant, democratic and courageous leadership in the civil rights struggle. I refer, of course, to the National Association for the Advancement of Colored People, the Congress of Racial Equality, the Southern Christian Leadership Conference, the Student Nonviolent Coordinating Committee, and the Negro American Labor Council. It is their program and demands that the administration must fulfill because they represent the only course to a just and democratic solution to the problems of race in our society.

We have hardly begun to remedy these situations and time is fast running out. Negroes will no longer tolerate these things and they are a thousand times right. Why should any human being allow himself to be denied the right to eat a sandwich and a cup of coffee in a store that gladly takes his money for other merchandises? Or the right to read a book in a public library, or swim at a public beach or pool, or take his children to a public amusement park? It is incredible that I should sit here, before a committee of learned and powerful members of the U.S. Congress and have to ask such questions. Yet, they must be asked, and, more importantly, they must be answered by prompt legislative action.

We support all of the civil rights proposals that have been put forward by President Kennedy, though some of them need to be strengthened and others need to be added to. For this committee, specifically, we support the President's proposal for a guarantee of equal access to all public facilities—hotels, restaurants, retail stores, and the like. It should be based, as he has suggested, on both the 14th amendment and on the Commerce Clause of the Constitution. We also believe that it should cover every firm that caters to the general public, without regard to the volume of their interstate business; even \$1 worth of such business should qualify them for inclusion under the rules of the act.

Furthermore, in this proposal as in all others in support of civil rights, we support the President's position that the Attorney General shall be authorized to bring suit on behalf of an aggrieved party. However, we recommend that the qualifying provision proposed by the President; namely, that in order for the Attorney General to act, the aggrieved party shall be too poor to bring action or shall be in fear of reprisals against himself should be stricken. Such a qualification, in the former case, would require a means test, which is objectionable and degrading; and in the latter case, would be difficult if not impossible to prove. The qualifications should be stricken and the Attorney General should be required to act to protect these constitutional rights of all citizens. Is this not the very purpose of a proper Department of Justice?

The President, in his message, made no mention of the role of the Federal Bureau of Investigation in the numerous instances where existing civil rights have been denied in the Southern States. Yet it is an open secret that the FBI has failed miserably to protect the rights of Negro citizens. Negro churches have been bombed, civil rights leaders have been threatened and have had violence inflicted upon them, wholesale intimidation and reprisals have occurred against persons trying to exercise their constitutional rights, and the FBI, again and again, has done nothing. This has been testified to by dozens of reputable Negro leaders in Southern States. We propose, therefore, that a new Federal law enforcement agency should be formed within the Civil Rights Division of the Department of Justice and that this new agency shall be given exclusive Federal jurisdiction in cases involving the violation of civil rights of American citizens. This new agency should be entirely separate from the FBI and should be recruited carefully with an eye to the sincere devotion of its agents to the civil rights of all American citizens.

It has recently become fashionable to emphasize that racism knows no geographical boundaries, that its pernicious influence is exercised in the North as well as the South. To the extent that these statements are aimed at spotlighting and eradicating all forms of discrimination and segregation everywhere, we applaud them.

On the other hand, it has often seemed that such statements are really intended to take the pressure off southern politicians and to make false equations between northern and southern race relations. That de facto segregation in housing, education and employment exists in large northern cities is well established. Similarly, police brutality is not unfamiliar to northern Negroes. But the fact remains that Medgar Evers was Secretary of the NAACP in Mississippi, not in New York or California; that thousands of civil rights demonstrators have not been jailed in Michigan; that the mayor of Philadelphia is not a member of the infamous White Citizens Council; and that in the North Negroes bearing college degrees are not turned away from the polls on grounds of illiteracy.

Mr. Chairman, it is sadly true that various forms of racism have become interwoven into the fabric of American life. A study of race relations history will show that this was possible because the Federal Government after 1877 was content to leave the so-called Negro problem in the hands of the "intelligent white men of the South."

We may spend many years reaping the bitter fruit of three-quarters of a century of congressional in'ference to the just demands of the Negro people. Birmingham, Jackson, and Montgomery—as well as Philadelphia, New York City, and Englewood, N.J.—are not the culmination but the beginning. But bitter years will certainly stretch into bitter decades if Congress and other branches of Government do not move now to extirpate all forms of racism within reach of the Federal Government.

We believe that the need for strong civil rights legislation is recognized by the vast majority of Americans. If such legislation is not forthcoming, if Congress permits itself to be stymied by an entrenched minority of w.r.x museum politicians, then surely the Negro people are justified in continuing direct extra-legal action to win their rights. They are justified in taking to the streets.

We recognize the problems that exist in the Congress as a result of the various undemocratic practices, formal, and informal, that still prevail here: Seniority rules that heavily favor the Dixiecrats; the filibuster; inordinate powers in the hands of the House Rules Committee; and, above all, that pernicious alliance of reactionary southern Democrats and northern Republicans who choke to death every decent and progressive measure that comes before the Nation.

But the glorious struggle now being waged by the American Negro will not be stopped by all of that. Either the Congress will see the handwriting on the wall and do what each of you knows perfectly well you should do, or it will be done the hard way, on the streets of every town and city in the country. The Socialist Party takes its place without reservation in the ranks of the great movement for freedom now.

STATEMENT OF A. DUDLEY WARD, ASSOCIATE GENERAL SECRETARY, GENERAL BOARD OF CHRISTIAN SOCIAL CONCERNS OF THE METHODIST CHURCH

The people called Methodist have an overwhelming interest in encouraging the passage of strong and meaningful civil rights legislation by the 88th Congress.

This interest is deeply religious and broadly human. The social, political, and economic health of the entire Nation greatly depend upon the removal now of long suffered civil injustices from the daily lives of millions of our fellow citizens.

The Methodist Church shares with all elements of the Hebrew-Christian tradition, a common faith that God is Father to all mankind. Under God, all men are brothers. God shows no partiality among the races and nations of men. He plays no favorites. Neither should we, His children.

In accordance with this fundamental faith, we believe the best society for men is one in which all citizens are granted equal opportunities to exercise personal liberties and to seek personal fulfillment. We know that government cannot provide its citizens with personal fulfillment, but it can and should provide for those rights and liberties without which personal fulfillment is impossible. When any section or group in a society denies any other group the basic rights of citizenship, then we believe the proper redress is to be had at law. The question of majority or minority status is quite irrelevant to this issue—it is a question of basic right for all citizens. It is shameful beyond calculation that equality before the law in such areas of fundamental human necessity as public accommodations, education, voting, employment, and housing, should have been so long denied to certain minority and racial groups in our land.

The General Conference, which is the governing body of the Methodist Church, has unequivocally declared its opposition to such denial of basic human rights. (See Resolution on "Human Rights," passed by the General Conference of the Methodist church on May 9, 1960; pp. 529, 632, *Daily Christian Advocate*, proceedings of the General Conference of 1960.) Meeting in Denver in May of 1960, the General Conference declared without qualification "for the equal rights of racial, cultural and religious groups." (Discipline, 1960, par. 2020.) This same General Conference called on the entire membership of the Methodist church to work actively "to eliminate discrimination and enforced segregation on the basis of race, color, or national origin * * *" (Discipline, 1960, par. 2026.) In this connection, the General Conference specifically mentioned the areas of housing, schools, employment, and community acceptance. (Ibid.)

The churches of this Nation must work primarily by the method of persuasion, under the law of love. The Congress, on the other hand, establishes law in the political order to be enforced by the administrative power of government. These are very different functions, but they are supplementary in the struggle for equal rights and opportunities for all citizens in our society. Other institutions and groups also have their own unique contributions to make in this struggle for basic human justice and dignity.

The inescapable implication of the Methodist position in these matters is that the guarantees of law should extend to those basic civil rights and liberties without which meaningful citizenship does not exist. Such rights and liberties include, as a minimum, equal opportunities in the following areas: Voting, employment, education, public accommodations, and housing.

Discrimination solely on the basis of race, religion, or national origin, in any of these areas, is an unjustified and an unjustifiable denial of constitutional liberties under our form of government. They are also a denial of the implications of the religious faiths professed by the great majority of Americans. Food, shelter, education, and work are basic necessities for all. Discrimination against any of our citizens as they seek these necessities is raw injustice. Such discrimination wastes both our economic and our human resources.

Many States and hundreds of cities in our land have already desegregated public accommodations. We read of a few such places where some degree of civic upset occurred before the desegregation took place. We read of practically none where civic upset took place after desegregation took place. We also note that the great majority of desegregation actions have occurred without untoward incident. This lends credence to the view that the American people are ready, as a whole, to accord to all citizens their full rights in our society. There is no justification for allowing an arbitrary few to perpetuate the denial of these rights in some localities and sections. The Congress can remedy this situation now by firm and fair legislation.

On the basis of its official voted positions the Methodist Church calls upon the Congress now to guarantee the basic human and civil rights mentioned here to all our people. It is a matter of simple right and justice.

STATEMENT OF GEO. WASHINGTON WILLIAMS, ATTORNEY-AT-LAW, BALTIMORE 2, MD.

The Peril of the White Race—a Black death. A People without vision—meaning a sense of perspective and cause and effect—perish, which is the long history of the world.

The Real and End-Result fight of the whites is not to hate or harm anybody, but to Protect their Race from amalgamation to the Point of Suicide, which is now being done through the Brainwashing Process, for which we have so soundly damned the Reds and Nazis. This, I am sure, at least a bulk of our people do not want to happen to their own, but all too many of them are indifferent or afraid, for one reason or another, to support those who are making their fight. I am sure that this also applies to the Clergy, fear of something-jobs, etc. I firmly believe that neither the clergy nor the bulk of the whites will initiate this suicide process in their own families, except under some type of compulsion like Arkansas and Mississippi bayonets. Hamilton, in Art. 27 of the Federalist, expresses this palpable truism on man. "A thing that rarely strikes the senses will generally have but little influence upon his mind." It has to hit one's nose to get him to act—then too late.

I challenge every decent, particularly thinking white person to deny this and refute the following part of this public challenge. We shall see if anybody (with emphasis on the Press) will dare to abuse and vilify those quoted.

The 17th of May will mark the Tenth Year since the so-called Segregation Decision by the Supreme Court, and one of the Press Associations says that "Segregationists" labeled that day 'Black Monday'. Others call it the "Second Emancipation" and thus this integration movement is associated with Lincoln, and implies that Lincoln would be for this integration program, which I dispute. The Emancipation proclamation itself was not general, but covered only the actual war area, a war measure only.

Lincoln worked on three hypotheses, namely: (1) in Holy Writ, it is said that a House Divided against itself cannot stand, and (2) he said that the country could not exist half slave and half free, that it would have to be all one or the other, and (3) he was, himself, working on the last item when he was in the White House, namely, that the country could not live in peace half Black and half White, and therefore, he was hoping to arrange for either a repatriation or a colonization in Central or the edge of South America. As to the third item, see the Diary of Gideon Welles, Secretary of the Navy, Vol. 1, page 160, et seq: Summer 1862. I quote a couple of items therefrom to support my statement:

(1) "The President was earnest in the matter of wishing to send the negroes out of the country." Defense of Race and hatred are not synonymous. Speech, Congress, December 1, 1862, re colonization.

(2) "Thought it essential to provide asylum for a race which we emancipated but which could never be recognized or admitted to be our equals."

(3) See Lincoln's First Inaugural Address as to the importance of our once dual system of government. In the Lincoln-Douglas Debates he said that he was not in favor of Negroes voting or serving on juries, as he knew, as did Jefferson, what the ultimate consequence would be—Race Conflict and amalgamation.

(4) Attorney General Bates "desired that deportation, by force if necessary, should go with emancipation." p. 158.

The Great Emancipator had previously made the following declarations: At Ottawa, Illinois, in the Douglas-Lincoln Debates, on August 21, 1858 "I have no purpose to introduce political and social equality between the white and the black races. There is a physical difference between the two, which, in my judgment, will probably forever forbid their living together upon the footing of perfect equality."

When a Delegation of Negro Preachers, et al, called upon him on August 14, 1862 he, inter alia, stated that: "You and we are different races. We have between us a broader difference than exists between almost any other two races. Whether it is right or wrong, I need not discuss; but this physical difference is a great disadvantage to us both, I think. Your race suffers very greatly, many of them, by living among us, while ours suffers from your presence. In a word, we suffer on each side. If this is admitted, it affords a reason, at least, why we should be separated."

At Springfield, on December 12, 1857, he said that "A separation of the races is the only perfect prevention of amalgamation, but as an immediate separation is impossible, then the next best thing to keep them apart where they are not already together."

Prof. Allan Nevins, Professor of American History at Columbia University and author, tells us in the U.S. News and World Rep., Nov. 14, 1938, page 72, that amalgamation will be the result, as things are now going: "As a historian, I do not for a moment believe that, in our mighty American river of many nationalities, two currents can flow side by side down the centuries without ultimately becoming one" and he says that "any sociologist could cite a dozen reasons why it is inevitable" and that he "could cite a dozen analogies from history to prove that such a process is inexorable, irresistible."

Thomas Jefferson says, "Nothing is more certainly written in the book of fate than that these people are to be free, nor is it less certain that these two races, equally free, cannot live under the same government." Letter to Holmes, April 22, 1820 says he hopes "a general emancipation and expatriation could be effected, and gradually with due sacrifice, I think it might be done." What is the answer to all this?

Many quotations sustaining the above expressions could be supplied, and I do not like to see Lincoln and Jefferson misunderstood and libeled as they have been down through the years and such people become Judas Goats by associating them with the current integration movement. If I am an evil person I am in good company. This presents a challenge to all integrationists.

Yours sincerely,

(S) GEO. WASHINGTON WILLIAMS.

BALTIMORE, MD.

The Editor, THE BALTIMORE SUN, City.

DEAR SIR: Those who have at least taken a peek at the "Beacon Lights of History," by Prof. John Lord (1888), will doubtless recall that what is now gradually developing was portended by him in "Old Pagan Civilizations," where he refers to the progress of mechanism and science and their culmination, he remarks that "the human mind may" then "seek some new department, an age of new wonders may arise—perhaps after the dominant races shall have become intoxicated with the greatness of their triumphs and have shared the fate of the old monarchies of the East. But I would not speculate on the destinies of the European nations, whether they are to make indefinite advances until they occupy and rule the whole world, or are destined to be succeeded by nations as yet undeveloped—savages," and refers to the past in that respect.

That was followed up by Spengler's "Decline of the West" (1890) and at about the same time by Stoddard's "Rising Tide of Color," all of which seems to be in the limbo of most people's memory, yet they still ring down the corridors of time, but it is said that none is so blind as he who will not see, nor so deaf as he who will not hear, and that seems to be, and, so, we will have to pay the price of our combination of ignorance, momentary interest, self-seeking politicians, indolence and public cowardice, as all other people have had to pay.

Such statesmen as Jefferson and Lincoln, among others, and now such as Prof. Allan Nevins, professor of history emeritus of Columbia University, support them now, anticipated what is happening today, and neither was willing for such effect nor what the end result will be, to ever happen. It appears that futility has overcome most people and they have no fight left in them, and this is no kin to the spirit that kept the Revolution going 8 years. That is the spirit that is the mortar of nations and peoples, without which I prefer to make no prophecy, but leave it to those familiar with the story of nations and peoples to do it. We are told that a people without vision perish—history proves it—we are now being hit in the nose—will we wake up and respond?

Yours sincerely,

(S) GEO. WASHINGTON WILLIAMS.

STATEMENT OF THE YOUNG DEMOCRATIC CLUB OF THE DISTRICT OF COLUMBIA

The 850 members of the Young Democratic Club of the District of Columbia submit this statement in favor of S. 1732, the public accommodations civil rights bill.

One hundred years after the Emancipation Proclamation, and 9 years after the Supreme Court held unconstitutional compulsory segregation in public schools, the United States, in 1963, is faced with a civil rights crisis, a crisis arising from one basic cause—the refusal by some Americans to treat other

Americans as equal human beings. We have come a long way since 1863 and since 1954, but we cannot simply look at how far we have come but we must keep in mind how far we still have to go.

The events of the last year have made clear that existing legislation is not adequate to guarantee equal rights to all Americans. The lawless actions of State and local officials in denying Negro Americans their constitutional rights has helped to create a situation in which additional Federal legislation is needed to enforce constitutionally protected rights. The Young Democratic Club of the District of Columbia urges enactment of S. 1732 which we believe is an important step forward toward the equal rights to which all Americans are entitled.

The bill provides injunctive relief against discrimination in public accommodations, at the suit of an individual, or in some cases, the Attorney General.

Many businessmen express a personal desire not to discriminate but say that they are afraid to treat all customers equally because they fear they will lose business to competitors. The bill would put all business affecting interstate commerce on an equal nondiscriminatory footing. The burdens on the free flow of interstate commerce resulting from discrimination would be relieved. The efforts of local authorities to impose segregation by police enforcement of unconstitutional laws, and ordinances would be checked.

We oppose any legislative limitation which would say, in effect, that big business may not discriminate but that little business may discriminate. Both Mrs. Murphy and the Murphy Corp. of America are subject to the Constitution. If there is to be any limit on the scope of the bill (e.g., because of inability to act on all complaints) we suggest that the Attorney General can set such limits by publishing standards he will use in determining when he will initiate action, just as, for example, the National Labor Relations Board has done in specifying certain cases as to which the Board does not take jurisdiction.

Questions of the constitutionality of the bill have been raised, based upon *The Civil Rights Cases*, in which the Supreme Court, in 1883, held the Civil Rights Act of 1875 not to be constitutionally authorized by the 13th or 14th amendment. In the first place, it would appear that the bill is constitutionally authorized by the commerce clause. Second, a constitution is not interpreted in a vacuum. The meaning and scope of a constitutional provision in 1883 is not necessarily its meaning and scope in 1963. Thus, for example, while the Supreme Court, in 1869 declared that "issuing a policy of insurance is not a transaction of commerce" (*Paul v. Virginia*, 8 Wall. 163, 183), by 1944 the insurance business had grown to the point where the Supreme Court held that Federal legislation regulating insurance was within the ambit of the commerce clause. *United States v. Southeastern Underwriters Assn.* (322 U.S. 533). Similarly, in the area of civil rights, the nature and scope of State action designed to perpetuate and encourage segregation has expanded sharply since 1883. Indeed, the Supreme Court holding in *The Civil Rights Cases* is merely that the 14th amendment does not reach individual acts "unsupported by State authority in the shape of laws, customs or judicial or executive proceedings." Recent years have demonstrated substantial efforts by State officials to encourage or at least to support discrimination. Such State actions may well have created constitutional support for the bill, under the 13th or 14th amendment, even under the theory of the 1883 decision. It is an interesting historical footnote that the views of Mr. Justice Harlan, dissenting, in *Plessy v. Ferguson* (1896) became the law of the land in *Brown v. Board of Education* (1954). It may be that his lone dissent in *The Civil Rights Cases* (1883) will have a similar history.

The bill has been opposed by some upon the basis of an alleged (but mythical) right of a businessman to run his business as he pleases. We say mythical because such a right plainly does not exist. The Government, in the public interest, limits the right of a businessman to run his business in many ways: Maximum hours, minimum wages, health and safety requirements, licensing requirements, and so on. All rights, including doing business, have counterpart responsibilities. When the Government calls upon a citizen to serve in the Armed Forces it does not limit this burden of citizenship to whites only. Similarly, the benefits of living in America should not be limited to whites only. An American who is required to give years of service and perhaps his life for his country should be entitled to equal rights in public accommodations. The businessman who obtains many benefits from the Government, starting with a license to operate and including police protection, should not complain if his

bundle of rights and responsibilities include a duty not to discriminate against other Americans.

This statement has emphasized two points: (1) The proposed legislation is needed in part because local officials have not enforced the Constitution and existing law; (2) the additional duties which will be imposed by statute are simply an example of restrictions which the law imposes so that the freedom of everyone is greater.

(1) S. 1732 has been greeted with outcries about States rights and claims that this legislation embodies excessive Federal interference in matters which are the responsibility of local governments. Here, as in many other instances of Federal legislation, precisely the opposite is true. If local officials had properly performed their obligations this legislation might not have been necessary. It is largely the refusal of local officials to enforce the Constitution of the United States, including the decisions of the Supreme Court and orders of Federal courts, which has produced the current civil rights crisis. The demonstrators have turned to the streets because they had no real recourse with local officials at the ballot box. The demonstrations are simply exercises in the rights of free speech, free assembly, and petition for redress of grievances. They are an effect of the current crisis, not a cause. The cause is essentially the insistence of some of our citizens—including, regretfully, Government officials—in discriminating, even though such discrimination by Government action is both unconstitutional and morally and ethically indefensible.

(2) The white businessmen who operate their businesses relatively freely today are able to do so in part because all Americans have together defended our freedom. Negro Americans are entitled to their fair share of this freedom. When the citizens of the United States, including these businessmen, acting through their Government, issued the call to draft men to defend the freedom of all there was no "white only" sign on the draft notice. There are no "white only" signs on the graves all over the world where lie those who died to defend our freedom. There should be no "white only" signs on the businesses whose freedom those men died to protect.

The Young Democratic Club of the District of Columbia strongly supports enactment of S. 1732. Thank you for the opportunity to submit this statement.

JOHN J. SEXTON, *President*.

STATEMENT OF THE WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, U.S. SECTION

The Women's International League for Peace and Freedom, the legislative office of which is at 120 Maryland Avenue NE., Washington, D.C., is gratified to have the privilege of presenting to your committee our views on the civil rights legislation currently before it. For 48 years the league has been concerned about civil rights and liberties.

The league, believing that peace in this country and in the world is inseparable from the protection of individual rights and freedom, is gratified whenever legislation is designed to secure and protect the civil rights of U.S. citizens. Gradual change and progress in the civil rights field, however welcome, does not mean that we have reached perfection. Indeed, the failure to adequately protect the civil rights of our Negro citizens has resulted in shocking injustices which have filled most Americans with shame and dangerously damaged our reputation among the nations of the world. There is no time to be lost in improving our practice of the democracy we preach.

The U.S. section of the league, in its recent annual meeting, urged support and early passage of the President's proposals for civil rights legislation. This bill we consider illustrative of the broad Federal enforcement powers in civil rights which are necessary and imperative to guarantee equal treatment for all. We are concerned especially with title II—in many ways the most important section of this legislation.

To be arbitrarily denied equal access to facilities and accommodations open to all white citizens is an intolerable insult. After 100 years of supposed emancipation it should hardly be necessary to demonstrate for so fundamental a right. As the President noted, "No action is more contrary to the spirit of our democracy . . . or none rightfully resented by a Negro citizen who seeks equal treatment . . . than the barring of that citizen from restaurants, hotels, theaters, recreational areas, and other public accommodations and

facilities." The Federal Government legally can and should put an end to such practices not only because they hurt the national economy and impede the flow of interstate commerce but also because Congress is empowered under the 14th amendment to pass legislation guaranteeing that all State laws prohibit unequal protection or treatment of any citizens.

Some argue that a public accommodations law might interfere with private property rights. However, the general welfare of the country supersedes this concern. Thirty-two States already have laws prohibiting discrimination in business places. Furthermore, Congress has in the past regulated business concerns to relieve the burden from the national commerce.

The league believes that title II can be served by both the Commerce Clause and the 14th amendment. There is direct precedent for combining these as the constitutional underpinning for the President's civil rights program. The Holding Company and Security Exchange Acts were both based on the commerce and postal powers of the Constitution. In addition, a Federal statute requiring equality of treatment without regard to race, color, religion, or national origin is a means of preventing unconstitutional State action and assuring equal legal protection to all.

The league recommends that:

1. The operating section not be written in terms of the Commerce Clause, as now, but rather covering everything that is open to the public.

2. If exceptions are necessary they be predicated on the right of privacy and not on size.

3. There not be added a dollar limitation on the public accommodations covered by the bill.

The league, in conclusion, supports the bill, particularly title II, whose passage is essential. It is the section whose implementation will effect the greatest and most immediate good in ending the racial strife and burying the resentment and gross injustice in our land. As the Attorney General noted:

"We have a need, and for this need there exists a remedy. Whether this remedy will be supplied is up to Congress * * *. No issues are more urgent today than those with which this legislation deals. And there is no better way to begin resolving those issues than through the prompt enactment of this legislation into law."

COMMUNICATIONS RECEIVED FOR THE RECORD

AMERICAN CIVIL LIBERTIES UNION,
New York, N.Y., August 5, 1963.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: We write in response to your kind letter of July 27, 1963, addressed to Lawrence Spelser, Esq., director of our Washington office.

We have been privileged to see the eloquent statement made by Mr. Roy Wilkins, executive secretary of the National Association for the Advancement of Colored People, made before the Senate Commerce Committee on July 22, 1963, dealing with the public accommodations bill now being considered by that committee. As a member organization in the Leadership Conference on Civil Rights, of which Mr. Wilkins is chairman, we associate ourselves wholeheartedly with and in support of the views expressed by Mr. Wilkins.

This provision is the heart of the President's civil rights proposals. Its passage is essential. If adopted and enforced enthusiastically, it will accomplish the purpose which Congress first intended to achieve in its 1875 public accommodations law which was held unconstitutional in the *Civil Rights Cases*, 109 U.S. 835 (1883). The administration bill is based both upon the Commerce Clause and the 14th amendment. We believe there is authority for grounding this provision on either or both sections of the Constitution. We agree with the administration officials who, in testifying on this bill before Congress, have stated their belief that it is not unlikely that the Supreme Court would uphold the constitutionality of this provision as appropriate legislation under the 14th. In addition, it is hardly open to dispute that Congress, through the Commerce Clause, has the authority to enact legislation which prohibits discrimination of facilities engaged in or affecting interstate commerce. Even in the *Civil Rights Cases*, the Supreme Court was constrained to note that—

"Of course these remarks do not apply to those cases in which Congress is clothed with direct and plenary powers of legislation over the whole subject, accompanied with an express or implied denial of such powers to the States, as in the regulation of commerce * * * among the several States * * *. In these cases Congress has the power to pass laws for regulating the subjects specified in every detail, and the conduct and transactions of individuals in respect thereto * * *."

Though the preamble invokes both the 14th amendment and the Commerce Clause, the language of the section which defines the scope of the right to equal treatment in places of public accommodation, speaks only in terms of interstate commerce. There is no language in the bill directed toward the enforcement of the right to nondiscriminatory treatment as a right guaranteed by the 14th amendment.

The consequences of this omission is that a large number of facilities—those not engaged in interstate commerce—will be outside the bill's prohibitions. If the bill were amended to include a separate section that prohibited discrimination explicitly on the authority of the 14th amendment, it would then reach all places of public accommodation, large and small.

To include such a section, which could be patterned after the 1875 Civil Rights Act, together with a severability clause, would not endanger the prohibitions based upon the Commerce Clause. Each would stand alone and in the event the 14th amendment section were held unconstitutional, the Commerce Clause provisions would remain.

There has been considerable discussion directed toward confining this provision's application to places of public accommodation whose gross income is at a fairly high level. We are opposed to such a provision; indeed, we are opposed to the administration provision which limits the application of the bill to accommodations whose facilities "are provided to a substantial degree to interstate travelers," and "a substantial portion" of whose goods has moved in interstate commerce, or whose "activities or operations * * * otherwise substantially affect interstate travel or the interstate movements of goods in commerce * * *." The test of substantiality is vague at best, and though its boundaries would eventually be determined in litigation, it will necessarily exclude a fair amount of business establishments from coverage. We think this difficulty will be avoided, and the purposes of the bill best served, by eliminating any such test of substantiality and making the statute applicable to all places of public accommodation which engage in or affect interstate commerce, regardless of size. The only exception we would admit, would be one or two family homes which take in travelers.

As proposed, the public accommodation provision would be enforced by suits to enjoin prosecutions. These could be brought either by an aggrieved party or by the Attorney General. The authority of the Attorney General to file suit is limited to those cases where, having received a complaint, he concludes that the aggrieved person "is unable to initiate and maintain appropriate legal proceedings" and that the purposes of the act will be "materially furthered" by filing of a suit.

These qualifications on the Attorney General's authority are unnecessary. The provision suggests that only the interests of individual plaintiffs are involved in enforcement of rights to equal treatment; but in reality the whole Nation is involved in the shame and human wrong of practices of racial discrimination. Here as in every area of racial discrimination, the time is long past when the Federal Government should assume full responsibility for eliminating discriminatory practices. The Attorney General should enjoy unfettered authority to enforce title II. The evil is a public evil which wholly warrants being attacked with the use of public resources.

We are indeed grateful for the opportunity you have afforded us to express our views.

Very respectfully yours,

JOHN DE J. PEMBERTON, JR.,
Executive Director.

AMERICAN NEWSPAPER GUILD

WASHINGTON, D.C.

RESOLUTION

Whereas the American Newspaper Guild is dedicated to equal justice for all the Nation's citizens; and

Whereas a century after their emancipation, the large number of Negro Americans find themselves in a condition of second-class citizenship little better than their former servitude; and

Whereas, the progress toward full political and human rights has been so shamefully slow as to bring despair to these victims of social injustice; and

Whereas, it has taken massive demonstrations by Negroes in the North and South to arouse the conscience of a Nation to a long abuse that is morally indefensible; and

Whereas "gradualism and tokenism" have been discredited as means of alleviating the cumulative effects of prejudice and towering economic and educational barriers; and

Whereas thousands of victims of this blight on American society are embattled for full equality now; and

Whereas the President of the United States has given Congress a broad program of long overdue civil rights legislation; and

Whereas the determination of Negroes to obtain their democratic rights continues in floodtide, as evidenced by plans for a march on Washington in August, and all indicators point to growing urgency for sweeping corrective action; and

Whereas some elements of Congress have threatened to thwart such legislation by filibuster or other means, which would aggravate a potentially explosive national problem: Therefore, be it

Resolved, That this convention voice wholehearted support of President Kennedy's drive for civil rights legislation; Be it further

Resolved, That the American Newspaper Guild vigorously opposes all filibuster or other move to thwart equal treatment in schools, jobs, and public accommodations; and be it further

Resolved, That the guild calls on Congress to recognize its obligation to the whole Nation by immediate and positive action on the President's civil rights proposals.

Adopted by the 30th Annual Convention of the American Newspaper Guild, July 8-12, 1963, Philadelphia, Pa.

[From Farm and Ranch magazine, August 1963]

STRAIGHT TALK

(By Thomas J. Anderson, Editor in Chief)

The courts are too slow, say the Negro agitators. Lynch mobs used to say the same thing. There's a story making the rounds that President Kennedy was overheard in a telephone conversation with Martin Luther King: "But, Martin, I just can't do that yet. You're taking me too fast. It's always been called the White House."

The integrate-by-force crowd claims the Negro is being denied his "human dignity." Human dignity has to be earned. And it is not earned by forcing oneself on people who don't want to associate on equal terms. The right to choose one's own associates, the right to discriminate; the right to be exclusive—these rights are the essence of human dignity.

What are "civil rights"? They are definitely not what NAACP would have you believe. The man who introduced the "civil rights" bill in the Senate nearly 100 years ago (Senator Lyman Trumbull of Illinois) defined "civil rights" as: "The right to make and enforce contracts, to sue and be sued, to give evidence, to inherit, purchase, sell, lease, and hold property and to convey real and personal property."

Senator Trumbull said his bill had nothing to do with social or political rights.

The American doctrine holds that men "are endowed by their Creator with certain inalienable rights." Among those rights is the right to be let alone by government as long as one is not harming one's fellow man; the right to worship as one pleases, but not the right to worship with whom one pleases. John Locke

put it "life, liberty, and property." The Declaration of Independence defined these "inalienable rights" as "the right to life, liberty, and the pursuit of happiness." If citizen A has a "civil right" to force himself on citizen B, then citizen B is denied his civil rights. If the Negro were really equal, he wouldn't force himself on whites. He wouldn't have to.

The next phase of together-and-equal will be the big push for intermarriage. It is not "rights" the Negro really wants, because no person has any legal or moral right to force himself on another. What infuriates the Negro is that he is not white. The goal of the Negro is not and never has been "separate but equal." The goal of the Negro is not to be a Negro. The goal of the Negro is to be white or, more realistically, to meet whites halfway—in a tan race. In no other way can the Negroes get social equality here or any other place in the world.

There is great consternation in integration circles as to what and how to integrate next. The Muslims want to go on and take over by force now, and not wait for the United Nations to do it.

The "moderate," middle-of-the-road integrationists want to continue nibbling away, which is an old cannibal custom. Of all integration forms, "token integration" is the most insidious and hypocritical. If it is right, why token? If it is wrong, why do it? Gradual integration is like gradual cancer. Token integration is as unrealistic as token pregnancy. Some uninformed white people who like to dream think the Negro doesn't really want to come to white churches, restaurants, and clubs. He just wants to prove he can come, then he'll go back to his own, they said. That's as absurd as issuing a marriage license to Elizabeth Taylor.

What shall we integrate next? 4-H Clubs? Farm Bureaus? Home demonstration clubs? Since the only equality on earth is 6 feet under it, why don't we integrate cemeteries next? Sorta token style. Negroes could be sandwiched in, so to speak, between present graves. None of the feller dwellers, white or Negro, could possibly object to this planned plot busting. Some of the quick, above ground, would complain. But there aren't really many grave watchers anyhow. There are no TV sets in graveyards.

Forced association after death is certainly the most preferable kind. And yet it is a grave fact that a "separate but equal" grave policy still exists. After all, eventually we all turn brown.

Proposed civil rights bills would destroy the American way of life, free enterprise, property rights, individual freedom and reduce our dynamic, competitive and cultural life to a single common denominator: statism. Government by force, fines, jail, blackmail, smear, intimidation, and coercion. Forced "equality" is not freedom, but slavery.

"Civil rights" bills are bills for the concentration of power, which the Bill of Rights specifically denies. Civil rights is another plank in the dictator's boardwalk, another nail in the coffin of States rights. If the Congress passes a law requiring no discrimination in jobs because of race, color or creed, millions of Americans will refuse to obey the law, just as they did during prohibition. Prohibition wouldn't work because people didn't want it. The 18th amendment was truly the law of the land, unlike the "Judge-made laws" under which we are now operating.

If you operated a Chinese restaurant and refused to hire Caucasians, proposed "civil rights" bills would enable the Federal Government to use "volunteers" (snoopers, just like in Russia) to bring charges against you to appear before a district judge in a distant city, at your expense, to prove you're innocent. Unless a man is free to manage his property, he does not really own it. A slave has no right of property. The Communist people are allowed to own virtually nothing, including an integrated restaurant.

The "civil rights" bill the Kountfounded Kennedy Klan wants will take away the Bill of Rights for all, white and black. It is the natural right of man to discriminate. Only idiots and prostitutes don't discriminate.

We're not free from prejudice and we're not free unless we are free to be prejudiced. One very serious prejudice I have is against men who walk like women. I will not hire one. And wouldn't, even if I were Personnel Director for the State Department. Now, I know men walk like women for different reasons. No matter. Women-walking men are not going to darken my door.

A proposed "civil rights" bill would give King John the right to close down any business engaged in interstate commerce which insists on hiring or firing who it wants or choosing its customers. If I so desire, I intend to hire only amoral sons of shanty Irish liquor traders, regardless of what any dictator says. Or

to not hire anybody because of their morals, the way they push full-clothed people into swimming pools or the way they comb their hair. Malcolm X. Elijah Muhammed Anderson ain't gonna integrate.

In a skin doctor's office a Negro woman waiting for her ultraviolet treatment kept staring at the peculiar marking on the face of another Negro woman. "You been X-rayed?"

"No'm. I been ultraviolated."

We white skins been ultraviolated.

ROANOKE, VA., July 15, 1963.

HON. EDWARD JARRETT,
Chief Clerk, Senate Commerce Committee,
Capitol Building, Washington, D.C.

DEAR MR. JARRETT: I am unable to appear before your committee to express my opposition to the terrible and tragic civil rights bill proposed by President Kennedy, brother Robert, and edited by Adam Clayton Powell. It is my view and opinion that if this bill would pass and be signed into law, we Americans would then have in America the beginning of a police state and thousands of misfits and never-do-wells, and bums would be on the payroll to police such a bill. The same as the NRA which the great majority of the people do not remember, but I do remember it well. There never was such a horde of bums and drunks that were swarming over the face of America plaguing good honest businessmen and trespassing in and upon their property. I personally had the pleasure and the ensuing embarrassment of throwing one of these bums out on his ear, or something. Of course, the NRA was unconstitutional.

I would appreciate very greatly if you would read into the record this letter of opposition to this proposed onerous bill, since I am unable to appear before your committee in person.

Respectfully yours,

S. A. BARBOUR.

BALTIMORE, Md., August 5, 1963.

TO: SENATE JUDICIARY COMMITTEE,
SENATE COMMERCE COMMITTEE,
HOUSE JUDICIARY COMMITTEE:

We are confronted today with the problem of reconsidering our interpretation of what constitutes a "right" of man and of the corollary problem of conflicting rights.

In general, a "right" simply means that we are relatively free to assume the possession or the use of something or to take a certain action. What we must do then is clarify the meaning of this relative freedom. In view of the fact that man can contemplate the possible consequences of his actions there arises a form of constraint on freedom which we call moral restraint. Moral restraint is a self-imposed restriction upon action directed to the end of increasing the freedom of others.

Moral restraint enhances social harmony, i.e. to say it alleviates conflicts. It is this harmony together with the productivity of people, which in turn depends at least in part upon the existence of harmony, which provides for the progressive development of social structure. To the extent that action is moral, i.e. morally restrained, civil restraint is unnecessary and becomes necessary to protect, restore or produce social harmony only in the absence of moral action.

We thus see that the relative freedom associated with a "right" is that freedom resulting when the only imposed restraints are moral or are derived from moral constraints.

Of particular concern here are those civil rights supposedly guaranteed to all Americans by the Constitution but denied to many, especially Negroes, because of the absence of moral restraint. The latter group and sympathizers through action in the form of nonviolent demonstration has repeatedly attempted to effect a recognition of the moral responsibility of all citizens. In the absence of perceptible change or at best very slow change toward such a recognition, their action, still nonviolent, has been directed to effecting legislation and constitutional reinterpretation to gain in practice what is supposedly theirs in principle.

Now it should be recognized that, in general, moral constraints or those derived therefrom lead to the production of harmony. Others, although intended to reduce conflict, in fact create conflict because they are impositions by persons or a group on other persons or groups whereas moral constraints are self-imposed.

To the extent that the action of the Negro and associated groups is directed to the achievement of the voluntary assumption of moral responsibility by the white community and/or the realization of his constitutional rights via interpretation and just enforcement we unanimously support that action; however, when said action is directed to effect the passage of proposed legislation we vigorously oppose it. We oppose it because: (1) it tends to lose its moral basis to the extent that the resulting legislation becomes an imposition on others; (2) one such imposition is foreseeable with reasonable certainty, i.e. the imposition on property rights.

The right to property is also guaranteed by the Constitution. This right implies that the owner can decide on the disposition of his property; however, said disposition should be moral. To deny services on the basis of color alone is not in accord with our notion of moral restraint; however, to force an owner to utilize his property in a manner not meeting his approval is subject to the same criticism and may deny him his constitutional right of property.

It is to be realized that rights do often conflict. Such conflict can be resolved by abolishing rights or a retention of those rights can be achieved by moral restraint. The practice of moral restraint by proprietor and patron alike should enhance the establishment of conditions conducive to the exercise of both civil and property rights.

We urge all men to recognize their moral responsibility in this issue and to avoid legislation which is to be justified by the expediency argument.

JAMES C. BEEBE,
Secretary, Committee for Political Analysis.

AMERICAN VETERANS COMMITTEE,
Washington, D.C., August 1, 1963.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce of the U.S. Senate, Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: This statement is being presented for the record on the views of the American Veterans Committee on S. 1732, the public accommodations civil rights bill.

The American Veterans Committee is an organization consisting of veterans of the Armed Forces who served in World War I, World War II, and the Korean conflict and has as its motto, "Citizens First, Veterans Second." Since its inception AVC has vigorously fought in the field of civil rights and has been instrumental in developing the policies of integration and nondiscrimination that are now the rule in the Department of Defense and other areas of AVC interest.

AVC strongly approved the principles and aims of S. 1732 and supported their enactment. At our recent 20th Anniversary Convention, May 30 to June 2, 1963 the following resolution was adopted:

CIVIL RIGHTS LEGISLATION

"Assembled in national convention to commemorate the 20th anniversary of its founding and the centenary of the Emancipation Proclamation, AVC calls upon the Congress of the United States speedily to enact comprehensive civil rights legislation and to close the gaps left open in the 1957 law and to go further AVC calls upon the Congress in particular:

"7. To enact legislation forbidding any person or firm to sell any commodity or service which has been transported in interstate commerce, or the sale of which affects interstate commerce, if such person or firm, in the sale of such commodity or service, discriminates on the basis of race, creed, color, or national origin."

In supporting this legislation, we believe that its constitutional authority should not rest solely on the interstate commerce clause but rather upon all sections of the Constitution that are reasonably related to the principles involved. Further, in line with this we do not believe that the criterion for what business or accommodation is covered should be whether such business or accommodation substantially affects interstate commerce. Rather we believe that a more proper criterion is whether the business or accommodation is of a public rather than private nature. If, based upon proper legislative guidelines, the business or accommodation is of a public nature that it should be open

to all on a nondiscriminatory basis regardless of the manner or amount of interstate business it does.

There is another matter which substantially affects commerce which we would like to bring to the attention of the distinguished chairman of this committee. Fair employment practices should be a part of the civil rights package which we hope the Congress will enact this year.

We recognize that there may be a question of jurisdiction of Senate committees. A Senate subcommittee under the able chairmanship of the senior Senator from Pennsylvania, Mr. Clark, recently concluded hearings on S. 773, a fair employment practices bill.

Because of the salutary effect which fair employment practices would have on interstate commerce we would recommend that the provisions of S. 773 be added as an additional title to S. 1732.

The American Veterans Committee appreciates the opportunity to present its views to the distinguished members of this committee.

Thank you.

PAUL COOKE, *National Chairman.*

MANCHESTER, N.H., August 6, 1963.

COMMITTEE ON COMMERCE,
Washington, D.C.

GENTLEMEN: My sense of duty, both as a citizen and as a white retired infantry officer, compels me to go on record in favor of the civil rights public accommodations bill. This statement will not concern itself with the equal rights guaranteed under the Federal and various State Constitutions which, I am certain, have been thoroughly covered in the committee hearings by persons much more eminent than I.

This statement will cover my personal experiences with Negro troops which I commanded in Korea in 1951, and my strong belief that the fact these Negroes knew they were second-class citizens directly affected the combat effectiveness of my platoon and of the battalion itself.

I served as infantry rifle platoon leader in K Company, 9th Infantry Regiment, 2d Division, in Korea from March 1951 until June 2, 1951 when I was wounded. The battalion was composed entirely of Negroes except for a few white officers and replacements. From the moment I arrived until the moment I left, I could sense, and feel and see the results of the resentment of the men that they were frontline troops. After having spent many days on the line with them, during and after the Communist spring offensive in April of 1951, I had an opportunity to discuss this acute problem with them. I was deeply concerned because we had had our share of men absent without leave, deserters, and self-inflicted wounds.

On talking with these men, which included my platoon sergeant, Sgt. Cyrus Predow, Sergeant Coutee, and Corporal Hemphill, and asking them why the morale of the men was so low, why the men had to be prodded with a bayonet to keep them moving in an attack, the answers were the same. The men simply did not feel that they should be frontline infantrymen since they were considered second-class citizens at home. Predow said, and I remember it vividly: "What I am fighting for, to get my tail kicked to the back of the bus when I get home because I'm a nigger?" Others told me that, because they were Negroes, they couldn't attend certain events, couldn't shop where they wanted, had to go hungry because restaurants wouldn't serve them, and couldn't urinate for hours because there were no facilities for Negroes. Others told me they were knocked insensible in some cities because they happened to walk on the sidewalk. I personally have seen Negroes, combat infantry veterans, forced to leave post exchanges because of the rank, foul discrimination that exists in the South.

All this is not to say that the combat record of our outfit was not good. It was good, as evidenced by the Distinguished Unit Citation awarded for breaking the back of the Chinese offensive in April of 1951. However, there is no doubt in my mind that our combat effectiveness as a unit was seriously impaired by the fact that the Negroes knew they were relegated to the status of second-class citizens at home who were denied rights others enjoyed but still had to fight on the battlefield for the very persons who were denying them those rights. I strongly feel that unless the Negro in this country is afforded the

same rights as other citizens, the same accommodations, then he should not be asked to perform the duties required of a citizen who enjoys those same rights.

As I led my men in the attacks and counterattacks in Korea through the decisive months of 1951 and saw them get hit by mortar fire, by 50 calibers, by burp-gun fire, by heavy artillery, and saw their red blood flow over their black skin, I could not help but feel an overwhelming sympathy for these men who, for a brief interval, served with me in our country's just cause.

In closing, I should like to quote parts of a letter sent to me by 1st Lt. Palmer K. Holk, who was my company commander. This letter was written after I was wounded in the attempt to secure a hill north of Inje, North Korea. It reads, in part: "We didn't secure the hill. Two days later we were relieved by the R.O.K.S. That day, 5 killed in action, 39 wounded in action. It got a little rough. Couldn't get any artillery fire and couldn't get the F. O. (forward observer) to move forward."

I quote Lieutenant Holk's letter to show the casualties suffered by this Negro company in one engagement. I would not be true to the memory of the men in my platoon who fought and died in those remote hills of Korea if I did not, at this time, make an earnest plea that the public accommodations bill be passed. The passage of such a bill would, in my humble opinion, strengthen our country internally, and at the same time would act as a fitting testimonial to those Negro war dead.

My sincere thanks to Senator John O. Pastore, and to the Committee on Commerce for allowing me to express my thoughts on this important legislation.

Very truly yours,

NICHOLAS G. COPADIS.

METROPOLITAN DETROIT COUNCIL OF CHURCHES,
Detroit, Mich., August 5, 1963.

Senator WARREN MAGNUSON,
*Chairman, Senate Commerce Committee,
 Senate Office Building, Washington, D.C.*

DEAR SENATOR MAGNUSON: This letter is to inform you that the churches of Michigan are deeply interested in obtaining civil rights for all Americans now. The Michigan Council of Churches, the Detroit Council of Churches and their constituent denominations have repeatedly urged legislation to provide full civil rights for all men regardless of racial distinction.

It is the profound conviction of the churches that this is a matter of serious moral concern. It should be upon the conscience of every sincere Christian and, indeed, every loyal American.

As you may know, the National Council of Churches, including more than 30 affiliated Protestant and Eastern Orthodox denominations, has launched an emergency campaign in the interest of civil rights. There is a deeper commitment than ever in regard to this issue and we urge your committee to give pending legislation for civil rights your wholehearted support.

You may be interested to know that Michigan does have an equal accommodations law which has proved to be valuable legislation. Many of us feel that there is still much to be done in the interest of full implementation yet we are glad to have this useful law.

We are delighted to discover that the three major faiths in our State are in agreement on the importance of civil rights legislation and their representatives are working together heartily in this field.

Best wishes to you as you continue to carry on in distinguished public service.

Most sincerely,

G. MERRILL LENOX,
Executive Director, Detroit and Michigan Councils of Churches.

[From the Evening Bulletin (Philadelphia, Pa.), July 24, 1963]

THE RIGHT TO BE NASTY

(By Laurence H. Eldredge)

(Mr. Eldredge is the reporter for the Supreme Court of Pennsylvania, former chairman of the board of governors of the Philadelphia Bar Association, and former professor of law in the University of Pennsylvania Law School and the Temple University School of Law. He has been invited by the Senate Judiciary Committee to present his views at the current hearings on the proposed civil rights legislation.)

I am completely sympathetic to the efforts which the members of the Negro race are making to eliminate in our public life the gross injustices which they have suffered in the past. Much of what has happened to them, and is still happening, both in the North and in the South, flagrantly violates our fundamental ideas of equal justice and equal rights for all citizens.

Nonetheless, the proposal for the Congress to enact a statute of nationwide application which would compel all persons who engage in providing services or selling goods to serve all prospective customers without any discrimination, under penalty of criminal sanctions, disturbs me greatly.

In the first place, every thoughtful student of legal history knows that there are some things which cannot be accomplished by law. Our laws do and must undergo change, and they reflect the felt necessities of the times.

However, with his customary acuity, Justice Holmes warned us long ago: "It cannot be helped, it is as it should be, that the law is behind the times. I told a labor leader once that what they asked was favor, and if a decision was against them they called it wicked. The same might be said of their opponents. It means that the law is growing. As law embodies beliefs that have triumphed in the battle of ideas and then have translated themselves into action, while there still is doubt, while opposite convictions still keep a battlefield against each other, the time for law has not come; the notion destined to prevail is not yet entitled to the field. It is a misfortune if a judge reads his conscious or unconscious sympathy with one side or the other prematurely into the law, and forgets that what seem to him to be first principles are believed by half his fellow men to be wrong."

It is essential for the enforcement of any law that it have at least the approval of a majority of the decent people in the community. A law which does not have such community support cannot be enforced.

A striking example of it in our own history, which is well known to you and me if not to the younger generation, is the history of the prohibition amendment. All the power of the U.S. Government, with the aid of the Coast Guard and of State enforcement agencies, could not compel obedience to the law, which was violently opposed by large numbers of responsible citizens in various parts of the country.

The Congress of the United States cannot, by statute, compel the people on a nationwide scale to measure up to a standard of what a portion of the population believes to be fair and decent and good morals. Deep-seated prejudices widely held can be eradicated only by education and persuasion.

CAN'T SET STANDARDS

It has always been a fundamental part of the Anglo-Saxon tradition of law that private citizens have a right to lead their own lives as they see fit, to make utter fools of themselves and incur community condemnation, and to be eccentric, unreasonable, bigoted, and nasty, if they choose to lead that kind of a life. Of course there are limits to this, and when an eccentricity expands to shooting one's neighbor because he is cross-eyed, that requires community sanction.

To me a shocking thing about the pending Senate bill is that it is based upon the constitutional power of Congress to regulate interstate commerce. This is intellectual dishonesty. The only rational basis for such legislation would be the 14th amendment. The very fact that the Attorney General has not based the power of Congress to enact such legislation upon that amendment emphasizes the distinction which has always existed between the power to control State action and the lack of power to control the conduct of private citizens.

When I taught the law of torts, I thought it was a fundamental concept of property law that one of the most important attributes of ownership of real estate is the right to exclusive possession of that real estate, and that anybody

who enters without my permission is a trespasser, unless he has a law-given privilege to enter.

I may stand at the door of my shop and tell a man who wants to enter, "Keep out. I just saw you kick a dog and I don't like you." I may also keep him out upon less rational grounds, such as the fact that I do not like the color of his necktie.

In other words, it has always been a part of my rights as a citizen owning property to be mean, ornery, cantankerous, and wholly unreasonable in living my life. This carries over into my disposition of my property after my death, and citizens may make strange dispositions of their property by will. What is done with property during life, and even after death may incur community condemnation because it does not fit in with the community thinking, and yet, except in extreme instances, no laws are violated.

PUBLIC AND PRIVATE

Getting back to the power of Government to regulate business, I realize that even the early English common law imposed special duties upon the innkeeper and the common carrier, and a few others, upon the ground that such businesses were of peculiar public interest. There were strong reasons why the weary traveler who knocked at the door of the inn late in the afternoon should not have the door slammed in his face, with the only other accommodations a day's journey distant.

It is also true that our concept of what businesses are affected with a public interest, and hence subject to special regulation, has undergone change and expansion to reflect "the felt necessities of the time." Nonetheless, the fundamental distinction has always been preserved between "private business" and "public business" or public utilities. Up to the present "private business" has been in the large majority.

It is of course possible, subject to constitutional limitations, for Congress to say that in the year 1963 every person who engages in business or offers services, and hopes the public will come to his premises to buy his wares or partake of his services, is operating a public utility and the Government can tell him how he must conduct himself in accepting or rejecting customers. I suppose this could even apply to doctors and lawyers and dentists.

REVOLUTIONARY CHANGE

However, if this change takes place in our law, it will mark a revolutionary change in what has been a fundamental concept of the rights of private citizens engaging in what has heretofore been considered "private" business to conduct such business as ineptly as they choose, even though it results in bankruptcy. This is the "big brother" concept with a vengeance. The Congress will set up a nationwide standard which is, in large part, a standard of morality and human decency as to how the businessman must treat customers and prospective customers. I doubt that it is the function of law to impose such standards even where 75 percent of the Nation strongly approves of the standard and its imposition. Unless we come to a welfare state, the other 25 percent have the right to remain free to be unreasonable and nasty if they can withstand the community condemnation which results.

I doubt that the standard presently being considered by the Senate is now approved by a large majority of our population. The question is one of intense dispute among decent people in many States in all geographical parts of this vast Nation. As Holmes put it, the "opposite convictions still keep a battlefield against each other." A legislator, as well as a judge, should not forget "that what seems to him to be first principles are believed by half his fellow men to be wrong."

STATE OF NEW YORK,
BOARD OF SUPERVISORS OF ERIE COUNTY,
Buffalo, N.Y., July 2, 1963.

To Whom It May Concern:

I hereby certify, that at a session of the Board of Supervisors of Erie County, held in the county hall, in the city of Buffalo, on the 2d day of July A.D. 1963, a resolution was adopted, of which the following is a true copy (Reference: Item 45, p. 492 of the journal):

"Resolved, That this board of supervisors record itself and hereby does record itself in favor of the spirit, purposes and goals of the civil rights bill as presented

by President Kennedy and supports the implementation of the principle of identical rights, privileges, and opportunities for all citizens."

Attest:

WALTER A. HOLZ,

Deputy Clerk of the Board of Supervisors of Erie County.

AUGUST 1, 1963.

HON. S. THURMOND,
Washington, D.C.

DEAR SENATOR: We, the undersigned, operators of small motels in the southern Indiana and Louisville, Ky., area wish to call to your attention that we are bitterly opposed to the Kennedy proposed civil rights legislation in all of its phases.

The public accommodations clause that will take away the property rights of millions of small business owners, take away their freedom of choice as to who they care to associate with, and cause them to live under constant threat that the Federal Government may at any time haul them into court, fine or jail them upon the say-so of an undesirable Negro hollering discrimination is opposed by this group.

We feel that the Federal Government should stay out of private business, that Senators and Congressmen should vote to stop this power grab of J.F.K. and his little brother Bobby, and remind them that their job is not to legislate law but to uphold it and the Constitution.

It is history that Hungary, Czechoslovakia, Poland, etc., lost their freedom little by little and did not wake up until the big guns and tanks were rolling in and the bayonets were at their throats, but too late. Many of our freedoms have already been lost. One can hardly do anything today without first going to a bureau or commission to obtain their permission and pay a license or permit fee. Please vote to stop the march of Federal power in this country before it is too late to stop a rebellion against Washington and Federal democracy.

We have been reading in the daily newspapers about Kennedy's rubberstamp men appearing before the commission and using every device possible to encourage the passing of this civil rights legislation. Franklin Delano, Jr., says, "that the businessmen of the country will welcome the passage of this proposed legislation." Nothing could be further from the truth. How could he possibly give the views of the millions of businesses throughout the country, since he has never been anything but a leech on the taxpayer since his father's regime.

Rusk, before the committee, said "the racial situation gives a bad image of America to the foreigners where we are trying to sell democracy." We wonder if Khrushchev and Castro give a "tinker's damn" about what we in America think of all their political enemies being shot. Why not quit worrying about what the foreigners think of us or our image and protect our own freedoms which our Constitution guarantees.

The undersigned operate a so-called Ma and Pa motel. This refers to motels operated by a man and wife. We live with the operation approximately 24 hours a day, 7 days a week, doing most of the work ourselves. We operate the registering of guests and are in very close association with them. The families live in the residence part of the motel and also are in close association with the guests.

We have all many, many times turned away white people that we do not consider suitable for various reasons, and do not relish a law that would make us take undesirable tenants, white or black. We can alibi and turn away an undesirable white person, but a colored would holler discrimination and involve us in a court action with possibly a fine or jailing under the proposed public accommodations legislation.

Governor Welsh, of Indiana (more taxes Matt as he is known here) and Governor Combs, of Kentucky, both came home and immediately passed their civil right proclamation after flying to Washington and talking with J.F.K. They used as their excuse that any business that is licensed by the State and this, of course, took in all businesses, as the State gets a license revenue from all of them in one way or another for passing the proclamation.

It would be interesting to investigate and learn what persuasion was used by J.F.K. to get these men to give up their political futures by passing these proclamations. Surely they will turn up in Washington with some high-paying appointed job.

We are wondering when our automobiles will be taken over. They are also licensed by the State. We also are wondering why the above Governors have the power to, with a scratch of the pen, legislate and control so many people's lives. Certainly the southern Governors are not recognized as having such power by the Federal Government and Bobby.

This group feels that if the Federal Government legislates away our property rights and our freedom of choice, then along with this legislation should be included a clause that the Federal Government shall take over these businesses the same as a piece of land condemned for a highway and pay the present owners present-day real estate valuation for the land and improvements thereon.

Several members of this group have placed their property on the market for sale in view of this proposed civil rights legislation and are willing to take a sacrifice price. We do not feel about this mixing as J.F.K. and Bobby.

This group realizes that peaceful picketing is lawful, but we are against sit-ins, kneel-ins, stand-ins, lie-ins, chain-ins, etc., that start out usually from a church under the guise of religion and wind up as brick and rock throwing, club and knife wielding racial riots. These riots should be stopped by legislation rather than encouraged by J.F.K. and his brother Bobby for political purposes.

We feel that the proposed march on Washington will be a mistake, and no legislation should be enacted under pressure of that kind.

It seems that our present Government is one that listens to blackmail; Russia is constantly blackmailing us, Castro blackmailed us out of \$65 million worth of medical and food supplies (this going to our enemies) and now the colored are threatening what they will do if a filibuster starts on this civil rights legislation.

Please remember that the big noise that you are now hearing is by a large organization of colored people agitated by trained rabble rousers who are making big money out of stirring this up. Some of our biased newspapers are giving but one side of the news and are distorting the news. Some are being encouraged by the politicians that hope to make political gains from the colored vote.

We in the motel business have talked to many people that certainly do not go along with this type legislation and believe the colored vote to be a drop in the bucket compared to the businessmen, their friends, and associates throughout the country that are bitterly against Federal Government controlling business. If these people were organized, their noise would be many times that of what is being heard today.

If this legislation is passed, it could never be thrown out as a law in the future without civil war between the blacks and whites.

Without a doubt in our mind this is communistic inspired and will be another step in reducing our freedom.

Trusting that you will do everything in your power to defeat this unjust legislation, we remain,

Respectfully yours,

Mrs. ALICE KOERS,
Alben Motel, Eastern Boulevard, Jeffersonville, Ind.
 LAURENCE COURT,
Court Motel, Highway 62, Jeffersonville, Ind.
 L. E. SHAFFER,
Jefferson-Villa Motel, Highway 62, Jeffersonville, Ind.
 BURL H. WATSON,
Moonbeam Motel, Highway 62, Jeffersonville, Ind.
 S. R. SHAFFER,
Bel-Air Motel, Highway 1-65, Jeffersonville, Ind.
 FRANK H. GOODBREE,
Holiday Motel, Highway 62, Jeffersonville, Ind.
 R. L. SUMMERS,
Oaks Motel, Highway 62, Jeffersonville, Ind.
 ROBERT L. FARRIS,
Star Motel, Highway 1-65, Jeffersonville, Ind.

JEWISH COMMUNITY COUNCIL,
Schenectady, N.Y., August 8, 1963.

Hon. WARREN MAGNUSON,
Chairman, Senate Commerce Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: The Jewish Community Relations Committee of our Jewish Community Council wishes to bring its views on the current civil rights

hearings to your respectful attention. As a member organization of the National Community Relations Advisory Council, we have fully endorsed and supported the position taken by the plenary meeting of this body of June 30, 1963, in the resolution on civil rights which was taken that day in Atlantic City. A copy of that resolution is enclosed.

In addition to fully endorsing the complete text of that resolution, we wish to offer our unqualified support to the legislative proposals which have been submitted by the administration and to recommend even stronger action on the following points:

(1) We feel that "part III" authorizing the Attorney General to bring injunctive suits should be broadened to include all civil rights violations, not just school desegregation as is recommended in the administration's proposals.

(2) We believe that there should be provision for a full FEPC with enforcement powers instead of the administration's proposal for such a body but limited only to firms holding government contracts.

(3) We feel that all places of public accommodation should be included in the prohibition against discrimination, not just business above a certain size.

(4) We believe that recognition should be given the fact that a sixth grade education or its equivalent is conclusive proof of sufficient literacy to vote in both State and Federal elections, not just Federal elections alone.

(5) And finally, we feel that there should be a congressional requirement that school districts begin complying with the Supreme Court's school decisions in 1963, as was promised in the 1960 Democratic Party platform.

We realize that the Congress of the United States has many serious and awesome responsibilities on its shoulders in the job of legislation for the best needs for all of our citizens for today, tomorrow, and the day after.

As members of a religious minority which has enjoyed many rights and privileges in this great democratic Nation we are reluctant to be too critical concerning the need for drastic changes in civil rights. But the time is long past when it can be said that the problems of racial inequality which have been bred by enforced segregation can be changed without the kind of mandatory legislation proposed by our President and as modified by our five suggestions.

We appreciate this opportunity to have our views become part of your hearings and we look forward to positive early action by the Congress on these matters.

Sincerely yours,

BENJAMIN FLAX, President.

Dr. HERMAN ROSENBAUM,

Chairman, Community Relations Committee.

RESOLUTION

JEWISH AGENCIES AND CIVIL RIGHTS

The current struggle of the American Negro is more than a struggle for civil rights. It is a struggle to secure human rights for all and to secure them now. It is a struggle in which we are all, regardless of color or faith, deeply involved, and to which, as Jews, we are firmly committed.

As Jews, we react with special sensitivity to the Negro's demands. We too, have stood before the oppressors demanding freedom. We, too, know the inexorable power of a righteous ideal. We, too, have buried our martyrs. Bitter experience has taught us what tragedy there is in a community of well-intentioned men who, through indifference and apathy, become accessories to the destruction of a people's rights. It is from such experience as well as for historic reasons of justice that Jewish agencies have long been in the forefront of the struggle to eliminate all forms of discrimination or segregation.

The times call upon us to reaffirm our wholehearted participation in the current struggle for human rights. Our Jewish heritage and our common humanity impel us to a renewed commitment to—

(a) Intensify our efforts to do all that is within our power to secure immediate justice and full citizenship rights for all Americans everywhere;

(b) Eliminate any vestiges of discrimination in our own institutions and to strive to make them exemplars of equal opportunity; and

(c) Encourage the direct involvement of our constituencies in the struggle to make America completely free.

THE ROLE OF GOVERNMENT IN CIVIL RIGHTS

President Kennedy has rightly said of the current civil rights struggle that it confronts our Nation with "a moral issue—as old as the Scriptures and as clear as the American Constitution." We agree with the President that "the time has come for this Nation to fulfill its promises."

Our Federal courts have firmly established that any form of discrimination enforced or aided by the State is unconstitutional. It is the responsibility of the legislative and executive branches of government—Federal, State, and local—to give practical meaning to these holdings.

We call upon the Congress to enact the civil rights program proposed by the President without delay and without weakening amendments.

We call upon State and local legislative bodies to adopt comprehensive measures prohibiting discrimination in employment, education, housing, and places of public accommodation, and establishing administrative agencies with sufficient powers to enforce such prohibitions.

We call upon the President to issue an Executive order establishing a Federal civil rights code and appropriate administrative machinery to assure nondiscrimination in all programs and services maintained or operated by the Federal Government or benefiting from any subsidy or other form of Federal assistance.

We call upon the executives of State and local governments to promulgate similar civil rights codes within their respective areas of jurisdiction.

WASHINGTON, D.C., July 1, 1963.

HON. WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee,
U.S. Senate, Washington, D.C.

DEAR CHAIRMAN MAGNUSON: Gov. Ross Barnett, on July 12, drew a false inference from a passage in the Supreme Court decision in the 1883 *Civil Rights Cases*: "Has Congress constitutional power to make such a law? Of course, no one will contend that the power to pass it was contained in the Constitution before the adoption of the last three amendments." This refers, as you know, to the 13th, 14th, and 15th amendments to the Constitution. Governor Barnett's inference was that the Commerce Clause already in the Constitution before these amendments were adopted did not give Congress the power to legislate on civil rights in public accommodations. When Justice Bradley spoke of "such a law" he, of course, meant the kind of law which was then and there declared unconstitutional; he was not talking about congressional power under the Commerce Clause, as Governor Barnett stated.

The Supreme Court left no doubt about that power: "Of course, these remarks do not apply to those cases in which Congress is clothed with direct and plenary powers of legislation over the whole subject, accompanied with an express or implied denial of such power to the States, as in the regulation of commerce with foreign nations, among the several States, and with the Indian tribes, the coinage of money, the establishment of post offices and post roads, the declaring of war, etc. In these cases Congress has power to pass laws for regulating the subjects specified in every detail, and the conduct and transactions of individuals in respect thereto."

The Court "discussed the question presented by the law on the assumption that a right to enjoy equal accommodation and privileges in all inns, public conveyances, and places of public amusement, is one of the essential rights of the citizen, which no State can abridge or interfere with." The Supreme Court assumed that the acts of carriers and innkeepers discriminating against Negroes were violations of State law. They were not State acts because they were not "authorized" or "sanctioned" by State law, and hence they were not violations of the 14th amendment. The Court assumed that the Negroes had rights under State law which they could vindicate in State courts.

According to this key passage from Justice Bradley's majority opinion, "Civil rights, such as are guaranteed by the Constitution against State aggression, cannot be impaired by the wrongful acts of individuals, unsupported by State authority in the shape of laws, customs, or judicial or executive proceedings. The wrongful act of an individual, unsupported by any such authority, is simply a private wrong, or a crime of that individual; an invasion of the rights of the injured party, it is true, whether they affect his person, his property, or his reputation; but if not sanctioned in some way by the State, or done under State

authority, his rights remain in full force, and may presumably be vindicated by resort to the laws of the State for redress." [Italic ours.]

This is "simply a private wrong, or a crime of [an] individual," it seems to me, under highly unlikely circumstances although they may have been generally assumed. This, however, is only "my humble opinion," aided, however, by the insertion by Senator Cooper into the Congressional Record of May 23, of the record of the 1883 *Civil Rights Cases*.

I would very much appreciate your acceptance of "my humble opinion" into your record for the consideration of your committee.

Yours sincerely,

SIDNEY KORETZ.

PROPOSED CIVIL RIGHTS LAW UNCONSTITUTIONAL—NOT SANCTIONED UNDER INTER-STATE COMMERCE CLAUSE OR 14TH AMENDMENT—AS TO PUBLIC ACCOMMODATIONS

NEW YORK CITY, August 5, 1963.

TO THE CHAIRMAN, SENATE INTERSTATE COMMERCE COMMITTEE,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: This statement is offered for inclusion in your record of hearings on the proposed civil rights law. If you please, as my personal exposition in brief of some points in opposition to it on constitutional grounds. Kindly have it printed in your hearings record, concerning the "public accommodations" proposal.

1. No part of the Constitution, nor the whole thereof, grants any power to the Federal Government—to Congress or the executive or judicial branch—such as is contemplated by this proposed law. It will be usurpation of power for Congress, or the President and his underlings, or the courts, to exercise any such power, and any law enacted to seem to empower officials to act in support of such a law will be made by the Constitution itself void from the start, despite any court misinterpretation.

2. The 14th amendment itself bars any such legislation by not granting any such power to the Federal Government, power not granted being clearly withheld from the Federal Government, which is a Government possessing only such powers as are enumerated in the original Constitution or in its amendments.

3. The 14th amendment cannot be interpreted by the courts so as to seem to have a broader reach through any strained effect of making the Bill of Rights amendments applicable against the States because the framers and adopters of the 14th (the Congress which framed it and the State legislatures which adopted it) are proved by the records not to have intended to make the Bill of Rights amendments applicable against the States (for instance): see the Fairman and Morrison articles in *Stanford Law Review*, Dec. 1949).

4. The Supreme Court lacks power, under the constitutional system, to reverse its 1883 decision first interpreting the 14th in relation to a State "public accommodations" law of 1875; so to attempt to change the decided meaning—based on all pertinent historical records proving the intent of its framers and adopters—is usurpation of power by the Court. (See my 1957 study: "Usurpers—Foes of Free Man.")

5. The fantastic, nonsensical proposition that the 13th amendment sanctions the "public accommodations" aspect of the proposed law falls of its own weight; no one who is competent and intellectually honest would pretend that its framers and adopters had any such intent, and to claim that this amendment includes any such sanction (contrary to their original intent) is to make a mockery of the entire concept of the constitutional system and rule by law under a written Constitution; America's chief contribution to the science of government in 1787-80. Such a claim is a fraud historically and morally.

6. To pretend to the contrary of the above propositions—stated by me as principles of constitutional law in keeping with the original intent as proved by all pertinent historical records—is to flout history and falsify the meaning of the records; or, in the alternative, to exhibit ignorance and incompetence in this field.

7. The proposed law should not be enacted, in my opinion as a member of the New York bar (retired).

HAMILTON A. LONG.

EL PASO, TEX., July 30, 1963.

Senator WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: I am writing to you at the suggestion of Mr. Burke Marshall, the Assistant Attorney General. The undersigned is one of those who drafted and lobbied for the passage of the El Paso civil rights ordinance in June of 1962. This ordinance, a copy of which is herein enclosed, is similar in many respects to Senate bill 1732, upon which your committee is holding hearings at this time.

I have had the experience of watching on television many of the witnesses who have testified before your committee during the past week. I have not seen any, however, who testified as to actual experiences under State and local legislation similar to the proposed Senate bill 1732.

Although such legislation, on a State and local basis, is nothing new but has existed for over 75 years, it was noteworthy that El Paso, Tex., adopted such an ordinance last year since this was the first such enactment in any of the 11 traditional Southern States.

Our experience has been gratifying. Before the passage of the ordinance the actual opposition was much weaker than we had anticipated. As a member of the human relation council, I had been working for the passage of this ordinance for nearly 1 year before it became law. Our four aldermen were all in favor of it, but the mayor vetoed it and the ordinance was passed over his veto. There was no violence, there were no demonstrations, and there was acceptance of the ordinance by the hotels, theaters, and restaurants of El Paso. Many of the theaters and restaurants welcomed with relief the passage of the ordinance, since they had the force of law behind their natural desire to serve all patrons without causing arguments on their business premises.

It was also our experience that almost all opponents to such legislation were bigots at heart. Although their arguments were couched in terms of "I am in favor of this legislation, but * * *," in truth they were opposed to the legislation and were seeking legalisms to justify their opposition in a day and age when prejudice is frowned upon.

I urge you and the members of your committee to hear testimony not only from such persons as City Attorney Travis White and former Alderman Burt Williams, both of El Paso, who were instrumental in drafting and introducing this legislation, but from persons in other areas of the country who have had similar actual experience with this type of legislation.

I do not think, Senator Magnuson, that even the most fervent 1962 opponents of the ordinance among the restaurant and hotel people would today be able to state that this legislation had either harmed their business, taken any of their property or profits from them, deprived them of any of their liberties, or created any super police power in the community.

I am sending a copy of this letter to Senator Ralph W. Yarborough—whose constituent I am, and who is a member of your committee—as well as to Mr. Burke Marshall.

Yours sincerely,

RICHARD T. MARSHALL.

P.S.—Our legislation in El Paso was patterned after a Kansas City ordinance which was tested and upheld by the Missouri Supreme Court in April of last year. One exception, however, was that we did not include in our legislation bars and taverns. While we hope someday to include drinking places within the coverage of such legislation, it was the feeling of even the most active integrationists, white and Negro, that we would be inviting difficulties by integrating places where patrons were subject to loss of inhibitions upon imbibing of alcoholic beverages. We hope that our community will be sociologically ready for such an extension of the ordinance within the next few years.

Sec. 15-2.1. Discrimination in certain public places.

(a) *Prohibited.* It shall be unlawful for any owner, operator or manager of any hotel, motel, restaurant or theater in the city, or for any agent or employee of such owner, operator or manager, to refuse, withhold from or deny to any person, for any reason directly or indirectly relating to the race, color or religion of such person, any of the accommodations, advantages, facilities or services of such hotel, motel, restaurant or theater, or to discriminate against any such per-

son for any such reason in furnishing such accommodations, advantages, facilities or services.

(b) *Definitions.*

(1) The terms "hotel" and "motel," as used in this section, shall include every establishment offering lodging to transient guests for compensation, but said terms shall not apply to any such establishment if the majority of occupants therein are permanent residents.

(2) The term "restaurant," as used in this section, shall include every cafe, cafeteria, coffee shop, sandwich shop, snack bar, supper club, soda fountain, soft drink or ice cream parlor, luncheonette or other similar establishment which offers food or beverages for purchase and consumption on the premises, but shall not include places at which intoxicating beverages are sold otherwise than as an accompaniment to meals.

(3) The term "theater" as used in this section shall include every place, whether indoors or out of doors, at which any theatrical performance, moving picture show, musical concert or recital, dramatic reading or monologue, circus carnival or other like entertainment or amusement is offered for compensation.

(c) *Exemptions from prohibition.* This section shall not, however, apply to any hotel, motel, restaurant or theater operated by a bona fide private club not conducted for the purpose of evading this section when the accommodations, advantages, facilities and services are restricted to the members of such club and their guests; nor to any bona fide social, fraternal, educational, civil, political or religious organization, when the profits of such accommodations, advantages, facilities and services, above reasonable and necessary expenses, are solely for the benefit of such organization.

(d) *Availability of civil remedies.* This section shall neither add to nor detract from any civil remedies now available to persons subject to racial or religious discrimination.

(e) *Penalty for violation.* Any person violating any provision of this section shall be deemed guilty of a misdemeanor and punished by a fine not exceeding two hundred dollars. (Ord. No. 2698, §§ 1-4, 6-21-62)

EDITOR'S NOTE.—Sec. 15-2.1 is derived from Ord. No. 2698, §§ 1-4. As said ordinance did not specifically amend this Code the manner of codification has been in the editor's discretion.

MINNEAPOLIS, MINN., July 9, 1963.

Re Interstate commerce and segregation.

Senator WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee,
Washington, D.C.

DEAR SENATOR MAGNUSON: I see by the public press that some consider the Interstate Commerce Clause to be barely applicable, if at all, to the pending matter of Negro rights to eat in public cafes and the like. Not being an expert on constitutional interpretation, I have nothing useful to say about that from the legal side. However, it is my understanding that when people cross State lines with the intention of spending money in another State and proceed to do so, this is clearly "interstate commerce" under the most stringent interpretations imaginable. If it can be shown that discrimination in eating and sleeping facilities impedes such movement of people and money, I gather this would suffice in the eyes of constitutional lawyers, and would not involve any fancy "stretching" of words to cover the cases of interest.

I am writing you to convey one very concrete example of such impeding effect upon interstate commerce. About a year ago, when I was president of the American Psychological Association, I presided at a meeting of our board of directors at which the board rescinded previous action to hold a national convention in Miami Beach, even though this location had already been announced. Our reason for taking this unusual action, which greatly disturbed Miami Beach's business leaders and resulted in inconvenience to our group, was that colored members of our association objected to the location because many facilities in Florida and adjacent States are still segregated. I should emphasize that the Miami Beach situation itself was satisfactory, and the local NAACP gave us its assurance to that effect. The point is that the sole reason for our change lay in the fact that certain of our members would have a sizable risk of experiencing personal indignity or inconvenience because in traveling to and from the con-

vention city they stood a fair chance of being refused food and shelter by segregated establishments.

Our figures show that approximately 10,000 psychologists go to these meetings, and that they spend an average of \$147 in the convention city. So I can state of my own knowledge that some \$1½ million was deflected from moving into Florida specifically and solely because of the kind of situation that title II of the proposed legislation aims to control.

I write this upon my own initiative and not as an officer of the association or by its authority; the fact of our board action is a matter of record, and I here merely transmit this fact to you as evidence which may be useful in your committee deliberations.

Cordially,

PAUL E. MEEHL.

MINNEAPOLIS, MINN., August 6, 1963.

HON. JOHN O. PASTORE,
*Acting Chairman, Senate Commerce Committee,
Washington, D.C.:*

I strongly urge prompt favorable action on the public accommodations bill. Minnesota has had such a law since 1885 and while improvement in implementation is continually being sought our experience has been entirely successful. Minority groups have been protected and our total community has benefited. By throwing the full legal and moral weight of the Government against unfair practices of discrimination we not only safeguard the rights of citizens and minority groups but raise the level of community attitudes and behavior to a standard consistent with American principles. In my view it is imperative that the Nation immediately take this important and long overdue step.

ARTHUR NAFTALIN,
Mayor of the City of Minneapolis, Minn.

PHI BETA SIGMA FRATERNITY, INC.,
Corona, N.Y., August 7, 1963.

SENATE COMMERCE COMMITTEE,
*Senate Office Building,
Washington, D.C.*

GENTLEMEN: Phi Beta Sigma Fraternity, Inc., is an intercollegiate fraternity composed of some 175 graduate and undergraduate chapters throughout the United States. We are also a member of the Leadership Conference on Civil Rights headed by Roy Wilkins, executive secretary of the National Association for the Advancement of Colored People.

As national director of social action for Phi Beta Sigma Fraternity, Inc., I urge the committee to act favorably upon the public accommodations section of the S. 1781, the administration's civil rights bill.

The statement by Mr. Wilkins before your committee on July 22, 1963, eloquently sets forth the case for every American who hopes fervently for the fulfillment of the dream upon which this Nation was founded.

The crisis in civil rights today is but the end product of decades of failure by the Congress to enact effective civil rights legislation; of the failure of American political leadership to recognize that the great revolution that tumbled colonialism throughout the world after World War II would surely have its impact upon the mood of the American Negro in his struggle for total freedom in the land of his birth.

I join with Mr. Wilkins in urging the committee to help get America in step with the spirit of the times by acting favorably upon the proposed legislation.

Very truly yours,

OLIVER C. EASTMAN.

DETROIT, MICH., August 5, 1898.

Senator WARREN MAGNUSON,
Chairman, Senate Commerce Committee,
Washington, D.C.:

As Christians we hold that all forms of racial discrimination and segregation are denials of human worth and are contrary to the will of God. We support legislation to eliminate discrimination in places of public accommodations. Our goal is a nonsegregated church in a nonsegregated society.

Rev. THOMAS A. BAILEY,
Chairman of Committee on Church and Society,
Presbytery of Detroit, United Presbyterian Church, U.S.A.

BUCKS, PA., July 11, 1898.

Hon. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. MAGNUSON: Thank you for your letter of July 8, in reply to my question as to whether the National Council of Churches has been scheduled to appear during the hearings on the public accommodations civil rights bill.

I enclose herewith two statements—one authorized by the organizations whose names appear at the end of the statement; the second a proxy statement by individual Protestants, authorizing me, or someone I may name, to speak for them.

I have the original authorizations from all of these organizations, and I will be glad to furnish your committee with photocopies of such documents for your records, if you would like to have them.

I also hold hundreds of signed proxies from individuals, and will be glad to furnish sample photocopies for your records, and to bring the originals to show the staff, if you would like to see them. I think you would prefer not to clutter your files with all the individual ones.

If the National Council of Churches does send a representative to read their pronouncement, we would greatly appreciate being notified, so that we may also send a personal representative.

If, however, they send a written statement, we would greatly appreciate having our statements appear in the printed record, directly following that of the National Council of Churches.

As you undoubtedly know, the National Council of Churches has never taken a vote of their membership on any of their political pronouncements. Every member of each of the organizations for which I am authorized to speak, has been polled, and an affirmative vote received, before the authorization was forwarded to me.

Because some Protestants do not belong to any such lay organizations connected with their churches, the second proxy was arranged, by request.

Sincerely,

C. O. STARR.

STATEMENT REPUDIATING THE POLITICAL ACTIVITIES OF THE NATIONAL COUNCIL OF CHURCHES OF CHRIST IN THE U.S.A.

The groups of Christian laymen and congregations appended hereto wish to make the following statement before this committee, and for the hearing record:

The National Council of Churches of Christ in the U.S.A. may not, and cannot, speak for or represent 40 million Protestants on any political or legislative matters.

As individual American voters, the National Council of Churches officials may, with perfect propriety, come before this committee and give their personal, individual opinions—provided that they make it clear that they are doing so as individuals, and not as NCCOA officials representing the membership of that organization.

The National Council of Churches has never been authorized by the millions of members it purports to speak for to appear before any congressional, State or local committees, speaking on—or to—legislation and other matters political.

The undersigned laymen's groups and congregations categorically repudiate all National Council of Churches political and legislative pronouncements—this particular legislation, or any other.

As Christian laymen's organizations and congregations we do not support or oppose any legislation, or enter into political affairs. These are rights and privileges reserved solely to individual voters.

We have polled our memberships, and they have voted complete support of this statement.

We serve notice herewith that the National Council of Churches has not, does not, and may not, represent us at these, or any other hearings and/or meetings dealing with legislation or other political questions.

SPONSORING GROUPS

Committee of Christian Laymen, Savannah, Ga.
 Methodist Laymen of North Hollywood, North Hollywood, Calif.
 Southern California Committee of Christian Laymen, South Bay Chapter, Torrance, Calif.
 Women of St. Mark's Episcopal Church, Shreveport, La.
 Edinburg Seventh-Day Baptist Church, Edinburg, Tex.
 Episcopal Education & Information Council, St. Clair Shores, Mich.
 Methodist Laymen's League of Redondo Beach, Redondo, Calif.
 The First Presbyterian Church, Duluth, Minn.
 Committee for Laity Enlightenment, Nashville, Tenn.
 National Committee of Christian Laymen, Phoenix, Ariz.
 San Diego Patriotic Society, San Diego, Calif.
 Methodist Laymen of Chatsworth, Chatsworth, Calif.
 Committee of Christian Laymen, Woodland Hills, Calif.
 St. Peter's Episcopal Church, Rosedale, Long Island, N.Y.

STATEMENT BY INDIVIDUAL PROTESTANTS REPUDIATING NATIONAL COUNCIL OF CHURCHES OF CHRIST IN THE U.S.A. POLITICAL PRONOUNCEMENTS

The National Council of Churches of Christ in the U.S.A. may not, and cannot, speak for or represent the millions of Protestants they claim to represent on any political or legislative matters.

As individual American voters, officials of the National Council of Churches may, with perfect propriety, come before any committee of Congress or State legislature and give their personal, individual opinions on such matters—provided that they make it clear to the committee and to the press that they are doing so as individuals and not as NCCCA officials, or representing the membership of that organization.

The National Council of Churches has never been authorized by the millions of members it purports to speak for to appear before any congressional, State, or local committee, speaking on—or to—legislation and other matters political.

As a member of a church affiliated with the NCCCA who has never authorized anyone to speak for me on political subjects, I hereby repudiate any and all such pronouncements, and/or political and legislative testimony given by any officials of the National Council of Churches.

I hereby serve notice that the National Council of Churches has not, does not, and may not represent me at any hearings, this particular hearing or any other, and/or meetings dealing with legislation and other political questions.

Signed: -----

(Name)

 (Address)

 (Church affiliation)

Date: -----

(Copy of authorizations in our possession, signed and dated.)

APPENDIXES

APPENDIX I

THE CONSTITUTIONALITY OF THE PUBLIC ACCOMMODATIONS PROVISIONS OF TITLE II

(Prepared by the Department of Justice)

There is no doubt that Congress has the constitutional power to enact title II, the public accommodations section of the proposed legislation. There are at least two immediately apparent sources of legislative authority. The first, the Commerce Clause, provides a much stronger and surer foundation for this section of the bill than does the second, the 14th amendment. It is clear, however that it is both unnecessary and unwise for Congress to select any single or particular source of power as the basis for this legislation. It is helpful, nonetheless, for Congress to insert in the act whatever findings of fact are appropriate to call into play the applicable sources of congressional power. But once this objective has been accomplished, there is no reason for Congress to commit itself to any one identified constitutional theory. Federal statutes often rest upon several sources of congressional power.

The danger of tying a statute to a single particular source of congressional authority is illustrated by the original *Civil Rights Cases*, 100 U.S. 3. In the Court's view, sections 1 and 2 of the Civil Rights Act of 1875—the provisions of which were in some respects identical to those of the present bill—had been tied by Congress exclusively to section 5 of the 14th amendment. The Court held the statute unconstitutional as based upon this amendment, and refused to consider whether it would be constitutional in some of its possible applications under the power to regulate interstate commerce (id. at 10). See also *Butts v. Merchants and Miners Transportation Co.*, 230 U.S. 120.

I

UNDER FAMILIAR CONSTITUTIONAL PRINCIPLES THE COMMERCE CLAUSE GIVES CONGRESS AMPLE POWER TO REQUIRE ALL SIGNIFICANT BUSINESSES SERVING THE GENERAL PUBLIC TO REFRAIN FROM RACIAL DISCRIMINATION

The power of Congress over interstate commerce and activities affecting interstate commerce is broad and plenary. "The congressional authority to protect interstate commerce from burdens and obstructions," Chief Justice Hughes said in *Labor Board v. Jones and Laughlin Steel Corp.*, 301 U.S. 1, 36-37, "is not limited to transactions deemed to be an essential part of a 'flow' of interstate or foreign commerce. . . . The fundamental principle is that the power to regulate commerce is the power to enact 'all appropriate legislation' for 'its protection and advancement' . . . to adopt measures 'to promote its growth and insure its safety' . . . 'to foster, protect, control, and restrain.'"

Congress may exercise this power notwithstanding that the particular activity is local, that it is quantitatively unimportant, that it involves the retail trade, or that it may not be regarded as interstate commerce. ". . . (W)hatever its nature, [it] may be reached by Congress if it asserts a substantial economic effect on interstate commerce, and this irrespective of whether such effect is what might at some earlier time have been defined as 'direct' or 'indirect.'" *Wickard v. Filburn*, 317 U.S. 111, 215.

Thus, in *Wickard v. Filburn*, the Agricultural Adjustment Act was applied to a farmer who sowed only 23 acres of wheat and whose individual effect on interstate commerce amounted only to the pressure of 239 bushels of wheat upon the total national market. In *Mabee v. White Plains Publishing Co.*, 327 U.S. 178, the wage and hour law was applied under the Commerce Clause to a newspaper whose circulation was about 9,000 copies and which mailed only 45 copies—

about one-half of 1 percent of its business—out of State.¹ And in *United States v. Sullivan*, 332 U.S. 689, the Court held, without dissent on this point, that Congress has power to forbid a small retail druggist from selling drugs without the form of label required by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), even though the drugs were imported in properly labeled bottles from which they were not removed until they reached the local drugstore and even though the drugs in question had reached the State 9 months before being resold.²

Of course, there are limits on congressional power under the Commerce Clause. It may be conceded that Congress does not hold the power to regulate all of a man's conduct solely because he has relationship with interstate commerce. What is required is that there be a relationship between interstate commerce and the evil to be regulated. Over the course of the years, various tests have been established for determining whether this relationship exists. The proposed legislation clearly meets these tests.

1. Artificial restrictions upon the market for goods

Supreme Court decisions have many times sustained the power of Congress to enact legislation which would remove artificial restrictions upon the markets for products from other States. The removal of such restrictions, as the Supreme Court recognized in *Stafford v. Wallace*, 258 U.S. 495, promotes interstate traffic and therefore constitutes an appropriate object for the exercise of congressional authority. On that basis, restraints involving the local exhibition of motion pictures have been the subject of Federal regulation under the Sherman Act (*Interstate Circuit v. United States*, 306 U.S. 208; *White Bar Theater v. State Theater Corp.*, 219 F. 2d 600; *Youngclaus v. Omaha Film Board*, 60 F. 2d 538; *IPC Distributors v. Chicago Moving Picture Machine Operators Union*, 132 F. Supp. 294), and so have stage attractions (*United States v. Shubert*, 348 U.S. 222), professional boxing matches (*United States v. International Boxing Club*, 348 U.S. 236), and professional football games (*Radovich v. National Football League*, 352 U.S. 445).

Like unlawful monopolies, racial discrimination and segregation in the establishments covered by the proposed legislation constitute artificial restrictions upon the movement of goods in interstate commerce, and they may be dealt with by the Congress for that reason. The restrictive impact of discriminatory practices is perhaps best illustrated by reference to the motion picture industry.

Motion picture theaters which refuse to admit Negroes will obviously draw patrons from a narrower segment of the market than if they were open to patrons of all races. The difference will often not be made up by separate theaters for Negroes because there are localities which can support one theater but not two (or two but not three, etc.); and because the inferior economic position in which racial discrimination has held Negroes often makes their custom alone financially inadequate to support a theater. Thus, the demand for films from out of State, and the royalties on such films, will be less. What is true of exclusion is true, although perhaps in less degree, of segregation. During any particular performance, a segregated theater may well lack sufficient seating space in the "white" area while offering ample seating in the Negro section, and vice versa. Moreover, the very fact of segregation in seating discourages attendance by Negroes.

The principles are applicable not merely to motion picture theaters but to the other establishments included under the proposed legislation as well. All of them receive supplies, equipment, or goods for resale, through the channels of interstate commerce. If these establishments narrow their potential markets by artificially restricting their patrons to non-Negroes, the volume of sales and

¹ See also, *Labor Board v. Fainblatt*, 306 U.S. 601, 607; *United States v. Darby*, 312 U.S. 100, 123.

² Laws enacted pursuant to the congressional Commerce Clause power have also been applied to businesses furnishing accommodations to interstate travelers (*Hotel Employees Local 655 v. Leedom*, 358 U.S. 99); to retail auto dealers (*Howell Chevrolet Co. v. National Labor Relations Board*, 346 U.S. 482); to corner druggists (*United States v. Sullivan*, 332 U.S. 689); to department stores (*J. L. Brandeis v. National Labor Relations Board*, 142 F. 2d 977 (C.A. 8), certiorari denied, 323 U.S. 751; *May Department Stores Co. v. National Labor Relations Board*, 326 U.S. 376); to theaters (*League of New York Theaters, Inc.*, 129 N.L.R.B. 1429; *National Labor Relations Board v. Combined Century Theaters*, 278 F. 2d 306 (C.A. 2)); and other retail enterprises (see, e.g., *Meat Cutters v. Fairlawn Meats*, 353 U.S. 20; *San Diego Building Trades Council v. Garmon*, 353 U.S. 26; *National Labor Relations Board v. Reliance Fuel Corp.*, 371 U.S. 224; *National Labor Relations Board v. Gene Compton's*, 262 F. 2d 653 (C.A. 9)).

therefore the volume of interstate purchases will be less. Although the demand may be partly filled by other establishments that do not discriminate, the effect will be substantial in those areas where segregation is practiced on a large scale.

Stores selling to Negroes and stores selling to non-Negroes will not be alike and will not carry all the same lines and quality of goods. The economic impact is felt in interstate commerce. The Commerce Clause vests power in Congress to remedy this problem.

2. Restrictions on interstate travel

Congress has long exercised authority under the Commerce Clause to remove impediments to interstate travel and interstate travelers. As long as 1887, legislation was enacted (49 U.S.C. 3(1)) forbidding a railroad in interstate commerce "to subject any particular person * * * to any undue or unreasonable prejudice or disadvantage in any respect whatsoever." Similar statutory authority is provided with respect to motor carriers (49 U.S.C. 316(d)) and air carriers (49 U.S.C. 1374(b)).

These provisions have been authoritatively construed to proscribe racial segregation of passengers on railroads (*Mitchell v. United States*, 313 U.S. 80; *Henderson v. United States*, 339 U.S. 816; *N.A.A.C.P. v. St. Louis-San Francisco Ry. Co.*, 297 I.O.C. 335), on motor carriers (*Boynton v. Virginia*, 364 U.S. 454; *Keys v. Carolina Coach Co.*, 64 M.C.C. 769), and on air carriers (*Fitzgerald v. Pan American World Airways*, 229 F. 2d 499 (C.A. 2)). The decisions in these cases are, of course, direct authority for the proposition that Congress may enact legislation appropriate to secure equality of treatment for Negroes using the facilities of interstate commerce.

The constitutional authority of Congress under the Commerce Clause, moreover, extends beyond the regulation of the interstate carriers themselves; it covers all businesses affecting interstate travel (i.e., interstate commerce). Thus the wages of employees engaged in preparing meals for interstate airlines, sandwiches for sale in a railroad terminal and ice for cooling trains have all been held subject to Federal regulation under the Commerce Clause. *Walling v. Armstrong*, 68 F. Supp. 870, affirmed, 161 F. 2d 515; *Sherry Corine Coke Corp. v. Mitchell*, 264 F. 2d 631, cert denied, 360 U.S. 934; *Mitchell v. Royal Baking Co.*, 219 F. 2d 532; *Chapman v. Home Ice Co.*, 136 F. 2d 353, cert denied, 320 U.S. 761.

Similarly, the Supreme Court has held restaurants to be within the scope of the Interstate Commerce Act's antidiscrimination provision if part of the facilities of an interstate carrier. In *Boynton v. Virginia*, 364 U.S. 454, 463, the Court declared:

"Interstate passengers have to eat * * *. Such passengers in transit on a paid interstate * * * journey had a right to expect that this essential transportation food service voluntarily provided for them under such circumstances would be rendered without discrimination prohibited by the Interstate Commerce Act."

While in *Boynton* the Court held that the Interstate Commerce Act of its own force reached only restaurants connected with the carrier itself, the reasoning with respect to effect on commerce is no less applicable to service stations, hotels, motels, and other establishments serving interstate travelers. Such establishments affect travelers, and therefore, interstate commerce, in the same manner as restaurants. Just as travelers need food, they must have gasoline and places to sleep. Clearly, discrimination by such establishments severely burdens and restricts interstate travel and may therefore be regulated by the Congress.

In removing impediments to interstate travel, Congress is not limited to forbidding discrimination against interstate travelers alone; it may forbid discrimination against local customers as well. Congress may "choose the means reasonably adapted to the attainment of the permitted end, even though they involve control of intrastate activities." *United States v. Darby*, 312 U.S. 100, 121. Interstate commerce is burdened if interstate travelers are required to carry with them proof that they are in the course of a trip through more than one State. See *Baldwin v. Morgan*, 287 F. 2d 750. And interstate travel is discouraged if the interstate traveler is aware that those of his race who are not involved in interstate travel are refused service or accommodations in facilities needed by interstate travelers. Congress may eliminate these incidental impediments to interstate travel along with the more direct burdens discussed above. *United States v. Darby*, 312 U.S. 100; *Currin v. Wallace*, 306 U.S. 1; *Thornton v. United States*, 271 U.S. 414; *Shreveport case*, 234 U.S. 342.

3. Elimination of adverse effects on the allocation of resources and flow of interstate commerce

The Commerce Clause also vests Congress with the authority to deal with conditions which adversely affect the allocation of resources and to eliminate the causes of disputes that may curtail the flow of interstate commerce.

The Federal Government has, of course, a legitimate interest in the interstate movement of capital and goods, and Congress has frequently acted in furtherance of that interest. Thus, in the Agricultural Adjustment Act of 1933, Congress invoked the commerce power because excessive supplies of farm products caused a disparity between industrial and farm prices and thereby tended to reduce "the volume of interstate and foreign commerce in industrial products. Similarly, the Fair Labor Standards Act speaks of the effect of "labor conditions detrimental to the minimum standard of living necessary for health, efficiency, and general well-being of workers" upon "the orderly and fair marketing of goods in commerce." See also, the declaration of policy in section 1 of the National Labor Relations Act.

Experience shows that discrimination, when widely practiced throughout sections of the country, has a markedly adverse effect upon the interstate flow of both capital and goods. Capital is reluctant to invest in the region. Skilled or educated men who will be the victims of discrimination are reluctant to settle in the area even when opportunities are available. The inferior economic position to which general discrimination and segregation relegate a large segment of the population in some regions reduces their purchasing power thus reducing the flow of goods and the incentive to bring capital into the area.^{*} It is perfectly apparent that Congress may legislate with respect to such conditions.

4. Elimination of causes of disruption in the flow of interstate commerce

There is a parallel congressional power to eliminate the causes of disputes that may curtail the flow of interstate commerce—power which was recognized and sustained in a number of decisions under the National Labor Relations Act. These decisions show that Congress may, by legislation, deal with labor disputes which halt production or the resale of manufactured goods because, based on the Federal interest in the elimination of obstructions to the free flow of commerce, there is a corresponding power to remove the causes of the disputes which are responsible for these obstructions. See *N.L.R.B. v. Jones & Laughlin Steel Corp.*, 301 U.S. 1; *N.L.R.B. v. Suburban Lumber Co.*, 212 F. 2d 829; *J. L. Brandels v. N.L.R.B.*, 142 F. 2d 977, cert denied, 323 U.S. 751; *N.L.R.B. v. Reliance Fuel Corp.*, 371 U.S. 224.

Disputes involving the racially discriminatory practices of places of public accommodation give rise to picketing and other demonstrations. The picketing and the demonstrations interfere with the sale of goods and thus affect interstate commerce in precisely the same manner as would labor disputes involving such establishments.

In any discussion of the Commerce Clause as a source of congressional authority for the public accommodations provisions in title II, it is important to emphasize that the *Civil Rights Cases*, 109 U.S. 3, involved no question concerning congressional power under the Commerce Clause. In its decision holding the Civil Rights Act of 1875 beyond the power of Congress under the 14th amendment, the Court did not pass upon the power of Congress to enact similar legislation under the Commerce Clause. It had been argued to the Court that the act was effective at least as to public conveyances, since they were plainly in interstate commerce, but the Court felt that "as the sections in question are not conceived in any such view," the statute could not even be considered under the Commerce Clause and had to stand or fall on the power of Congress under the 14th amendment (109 U.S. at 10).

^{*}News media and publications have noted a dramatic reduction in business activity in regions which suffer from the effects of racial discrimination. Thus, the Wall Street Journal of May 26, 1961, pointed out that new construction contracts in the first quarter of 1961 ran 11 percent below the first quarter of 1960 in the six Southern States served by the Atlanta Federal Reserve Bank, while during the same period there was a rise nationally of 0.2 percent.

II

WHILE THE 14TH AMENDMENT MAY PROVIDE A CONSTITUTIONAL BASIS FOR A FEDERAL LAW PROHIBITING DISCRIMINATION IN ESTABLISHMENTS DEALING WITH THE PUBLIC, ITS ADEQUACY IS SUBJECT TO SIGNIFICANT DOUBTS

Section 1 of the 14th amendment provides that "No State shall . . . deny to any person the equal protection of the laws."

Section 5 provides that "Congress shall have power by appropriate legislation to enforce the provisions of this article."

On its face the amendment is aimed at discrimination by a State, and laws enforcing the amendment must therefore be aimed at State action. The 14th amendment is not concerned with private discriminations as such.

The scope of both sections 1 and 5 of the 14th amendment was squarely adjudicated in 1883 in the *Civil Rights Cases*. Section 1 of the Civil Rights Act of 1875 declared that all persons should be entitled to full and equal enjoyment of "the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters and other places of public amusement," and section 2 made it a crime to deny any person such full enjoyment. Actions were brought against a railroad, a theater, and a hotel. The Court held the statute unconstitutional in all three applications on the ground that the power of Congress under the 14th amendment was limited to enforcing the prohibitions against State action whereas the statute made "no reference whatever to any supposed or apprehended violation of the 14th amendment on the part of the States." This supposed distinction between private and governmental action has been consistently observed ever since the decision in the *Civil Rights Cases*. See, e.g., *Shelley v. Kraemer*, 334 U.S. 1, 13; *Burton v. Wilmington Parking Authority*, 365 U.S. 715, 721.

The proposed public accommodations provisions of the bill, except as they can be rested on the power to regulate interstate commerce, are for this purpose indistinguishable from the legislation held unconstitutional in the *Civil Rights Cases*. Indeed, apart from the fact that the proposed bill would impose no criminal sanctions, the major difference is that the present bill is broader in application. To sustain any of the proposed laws as an exercise of the power of Congress under section 5 of the 14th amendment would require the Supreme Court either to overrule the *Civil Rights Cases* or distinguish them on grounds destroying their vitality.

Three principal lines of argument in support of a departure from the result reached in the *Civil Rights Cases* have been suggested:

(1) Public segregation, it can be argued with substantial practical and historical force, is the product of and supported by State action; indeed, were it not for the past or present support of State laws and State officials, widespread public racial segregation would not exist. Congress, by preventing unconstitutional State support for public segregation, is not limited in its choice of remedies to dealing with the action of the State officials; it can deal with the customs and usages which are the result of such action. The power to enact "appropriate legislation," the argument would continue, includes the power to enact any law centered upon the evil of State action causing and supporting discrimination; the legislature may take in whatever additional area is necessary to make the prohibition of the evil effective. If Congress finds that the most effective way of eliminating unconstitutional State support for nongovernmental discrimination is to forbid the discrimination itself, then the courts should sustain the measure without further reviewing the congressional determination.

There is no novelty in the argument that the power of Congress to enact legislation implementing the 14th amendment goes beyond the precise boundaries of the substantive prohibition. Section 5 of the amendment, like the "necessary and proper" clause in article I, must carry authority to enact any measure suited to prevent or rectify unconstitutional State action even though it may have wider ramifications. The controlling principle was stated by Chief Justice Marshall in *McCulloch v. Maryland*, 4 Wheat, 421: "The sound construction of the Constitution must allow the National Legislature that discretion, with respect to which the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly

adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional." This principle was applied to a prohibitory provision of the Constitution in *Everard's Breweries v. Day*, 205 U.S. 545, where the Court held that under section 2 of the 18th amendment Congress had power to prohibit the prescription of intoxicating liquor for medicinal purposes although the amendment itself prohibited only the sale of intoxicating liquor for beverage purposes.

The foregoing reasoning would call for overruling the *Civil Rights Cases* in the sense that the public accommodations title of the bill is, as pointed out above, indistinguishable in principle from sections 1 and 2 of the Civil Rights Act of 1875. On the other hand, the argument would present evidence, and call for a decision, upon historical and practical grounds not available in 1883, so that the Court would have a substantial factual and legal justification for reconsidering the question.

(2) A second line of argument suggested is that the action of any business enterprise which hold a "license" from a State is State action for the purpose of the 14th amendment, so that racial discrimination by a licensee is racial discrimination by the State.

At its broadest, this argument would assume that everyone who holds a license has some privilege or franchise from the State and that, therefore, when he conducts his business, he is exercising a State function.

No doubt discrimination by a licensee is State action for the purpose of the 14th amendment where the license granted by State authority gives the holder some special privilege to conduct a business on public property for the benefit of the public. This is true, for example, of transit lines and bus companies using the public thoroughfares for private profit. *Homan v. Birmingham Transit Co.*, 280 F. 2d 531. Furthermore, if the license carries a complete or partial monopoly, the State that confers the benefit probably has a duty to see that it is used without racial discrimination in the service of all those members of the public for whom it purports to be intended.

But it may be doubted whether every one of the hundreds of different kinds of businessmen, each of whom holds a license from a State, is acting as the State so that the State is constitutionally responsible for his conduct. The license is frequently, and perhaps usually, no more than a means of obtaining revenue or of maintaining health, safety, or other standards, and is not a method of charging a business with duties to the public or with performing governmental functions. Moreover, treating licensees as State agencies would raise substantial and troublesome questions as to the applicability of other 14th amendment inhibitions, such as the Due Process Clause, to establishments heretofore regarded as generally immune from such strictures.

(3) A third suggestion, which has been made in various forms, is that discrimination by any "business affected with a public interest" violates the 14th amendment. The phrase "business affected with a public interest" has no definite meaning. It was at one time used to describe businesses which could be made the subject of detailed State regulation without giving rise to valid objections based on the Due Process Clause. It has fallen into disuse in constitutional law except as revived by some of the current constitutional debate over civil rights legislation. It is not at all clear that the doctrine can be transmuted into affirmative support for sustaining the bill under the 14th amendment.

In appraising the degree of likelihood that the *Civil Rights Cases* would not be followed, three sets of circumstances ought to be kept in mind:

(1) The *Civil Rights Cases* were decided 80 years ago and have never been questioned in subsequent opinions of the Court. An expansion of the concept of State action has occurred,¹ but the basic 14th amendment distinction between governmental and private action has been consistently observed down to the present day.²

(2) In the recent "sit-in" cases,³ the Court, though asked to adopt the broad interpretation of the 14th amendment, carefully avoided basing its decision upon any ground casting doubt upon the basic distinction between governmental and private action.

¹ E.g., *Shelley v. Kraemer*, 334 U.S. 118; *Burton v. Wilmington Parking Authority*, 365 U.S. 715; *Terry v. Adams*, 345 U.S. 461. See Williams, "The Twilight of State Action," 41 Tex. L. Rev. 390.

² *Shelley v. Kraemer*, 334 U.S. 118; *Burton v. Wilmington Parking Authority*, 365 U.S. 715, 721.

³ *Garner v. Louisiana*, 368 U.S. 157; *Peterson v. City of Greenville*, 373 U.S. —; *Shuttlesworth v. Alabama*, 373 U.S. —; *Avent v. North Carolina*, 373 U.S. —; *Lombard v. Louisiana*, 378 U.S. —.

(3) The problem here is very different from the constitutional decisions confronting the New Deal Congresses of the 1930's. The early decisions that would have invalidated such laws as the Wagner Act, the Fair Labor Standards Act, and the Guffey Act had been the subject of widespread criticism by legal scholars; the Court had been sharply divided in those cases and there was an opposing line of decisional authority supporting constitutionality. This was especially true with respect to the *Commerce Clause Cases*. No comparable conditions exist with respect to the 14th amendment.

All of this, of course, is not to say that the Court would necessarily invalidate public accommodations provisions based upon the 14th amendment. In fact, many authoritative legal commentators have expressed view that the *Civil Rights Cases* would no longer be followed by the Supreme Court. Unless and until this occurs, however, the 1883 cases remain the law.

It thus clearly emerges that there would be serious problems in enacting a public accommodations bill exclusively under the authority of the 14th amendment. Such a step would jeopardize civil rights by taking an unnecessary risk of unconstitutionality. The Commerce Clause is available as an additional and, it is believed, an unexceptionable and unchallengeable source of power. In recognition of these factors, the administration's bill draws upon both the Commerce Clause and the 14th amendment as the basis of congressional authority.

III

COVERAGE OF AN EQUAL PUBLIC ACCOMMODATIONS LAW BASED ON THE 14TH AMENDMENT WOULD, UNLESS OTHERWISE DEFINED, BE VAGUE AND UNCERTAIN, WHEREAS LEGISLATION BASED ON THE COMMERCE CLAUSE WOULD BE INTERPRETED IN THE LIGHT OF FAMILIAR PRECEDENTS UNDER THE FAIR LABOR STANDARDS AND NATIONAL LABOR RELATIONS ACTS

Because the Constitution delegates authority in broad and general terms, leaving it to Congress and the courts to work out an exact application, the precise scope of any statute is bound to be uncertain for some time if its coverage is defined solely in terms of the constitutional limits of congressional power. Thirty years ago an equal public accommodations law framed in terms of the effect of individual enterprises upon interstate commerce might well have been as indefinite in its scope as a law based upon the 14th amendment. Today, however, the coverage of an equal public accommodations law framed in terms of the effect of an enterprise upon interstate commerce is quite clear.

The reason for the certainty in coverage of a law based on the Commerce Clause is that its reach has been tested and defined in the courts over a long period. There are decisions under the National Labor Relations Act dealing with almost every kind of establishment that might be covered under the proposed equal public accommodations law. Although the Fair Labor Standards Act does not apply to retail or service establishments, many of the legal principles and concepts developed under that statute, as well as others regulating commerce, would be useful guides in interpreting the proposed act. A bill based solely upon the 14th amendment would have no such extensive body of legal precedent upon which the courts could draw in determining its scope.

Moreover, it must be remembered that almost every businessman knows or can easily ascertain whether he regularly serves interstate travelers, even though they are only a small percentage of his business; whether his guests are transients; whether some of the goods that he sells or equipment that he uses comes, directly or indirectly, from out of State; or whether his operations, like those of airport taxi service or local bus company, facilitate the movement of persons or goods in interstate commerce. These tests, plus the specific listings in sections 202(a) (1) and (2), would advise most enterprises as to whether they were covered by the law. The addition of the word "substantially" in section 202(a) (3) is intended to rule out a trifling, occasional, and haphazard relation to interstate commerce that would come within the maxim *de minimis non curat lex*. Moreover, under the bill as proposed, no penal sanction could be imposed except for contempt of court; that is, for continuing to violate the statute after a judicial determination that the establishment was covered by the act. Thus, doubt as to whether a particular establishment is covered would be resolved prior to entry of an enforceable court order and no property owner would be required to act at his peril without knowing where he is subject to title II.

A bill based only upon the 14th amendment would pose substantial problems in application and lead to untoward results.

Under one 14th amendment proposal, the predominant tests are whether the business: (a) deals with the public and, (b) is required, under State law, to have a license. First, it should be recognized that the requirement of a license might well defeat the purposes of the legislation, for it would be simple enough for any State to repeal its licensing laws and find other means of collecting a tax or enforcing regulations.

Moreover, using the existence of a State license as a test of coverage yields irrational results. Thus, in one or more States, a statute based upon State licenses would not reach department stores, supermarkets, hotels, and boarding-houses, drugstore sales of general merchandise, or amusement parks. On the other hand, in another State the list of covered establishments would include dealers in coffins and caskets, dice dealers, feather renovators, legerdemain and sleight-of-hand artists, menageries, peddlers, and itinerant vendors, and fortune tellers, palmists, and clairvoyants (although some might escape upon the ground that they sold neither facilities nor goods).

That variations in State laws would make licensing an uneven test is borne out by the laws of four States—Alabama, Mississippi, Minnesota, and Pennsylvania—as applied to just nine common businesses dealing with the public. Department stores would be covered in Alabama and Pennsylvania, but not in Minnesota; in Mississippi, coverage would be a matter of local option. Amusement parks would be covered in Alabama and Mississippi, but not in Pennsylvania; in Minnesota it would be a matter of local option. Supermarkets would be covered in Pennsylvania, Alabama, and Minnesota, but not in Mississippi. Bowling alleys would be covered in Alabama, but in Pennsylvania, Mississippi, and Minnesota coverage would be a matter of local option.

Not only would one find these anomalous differences between the States, but there would also be incongruities in the treatment of establishments within a single State. For example, supermarkets would be covered in Minnesota, but not department stores. Drugstores selling food in Minnesota would be covered, but not those selling general merchandise. Hotels would not be covered in Pennsylvania, although the law would apply to dancehalls. In Mississippi, the law would apply to dancehalls and skating rinks but not necessarily to bowling alleys.

Such variations may be rational in terms of the revenue and regulatory aims of State licensing laws, but they have no place in national legislation aimed at securing equality of treatment in public places.

Other proposals embrace the same incongruities and appear ever more vague. One suggested test of coverage is whether a business is "authorized by a State or a political subdivision of a State." Since the notion of a business authorized by a State does not seem to appear anywhere else in the law, except perhaps to distinguish prohibited businesses from those not prohibited, the meaning is uncertain. The apparent intent is to reach all those businesses whose activities might be regarded as State action for the purposes of the 14th amendment, but, at this point, no one can tell whether the bill would reach only franchised monopolies such as busines and transit companies, whose action is State action for the purposes of the 14th amendment, or whether it would be held to reach any and all business subject to State regulations.

IV

THE 13TH AMENDMENT MAY PROVIDE AN ADDITIONAL BASIS FOR A FEDERAL LAW PROHIBITING DISCRIMINATION IN ESTABLISHMENTS DEALING WITH THE PUBLIC

It has been suggested that additional support for the constitutionality of title II may be found in the 13th amendment which outlaws slavery and involuntary servitude and authorizes Congress to enact "appropriate legislation" enforcing the prohibition.

The first Mr. Justice Harlan, in his dissent in the *Civil Rights* cases, sought to sustain the Civil Rights Act of 1866 by urging that the 13th amendment was broad enough to permit Congress to prohibit not only the legal institution of slavery itself, but also the collateral burdens and incidents—the civil disabilities and inequalities—which either accompanied or followed it. He said that "the power of Congress, under the 13th amendment, is not necessarily restricted to legislation against slavery as an institution upheld by positive law, but may be exerted to the extent, at least, of protecting the liberated race against discrimina-

tion, in respect of legal rights belonging to freemen, where such discrimination is based upon race" (109 U.S. at 87).

While the most salient characteristic of the institution of slavery was the ownership of one person by another, this was by no means the only one. The slave system also encompassed the imposition on the slaves of many degradations, inferiorities, and disabilities designed to make impossible any relationship of equality between the slaves and their masters. Ownership of one human being by another was itself ended by the 13th amendment, but racial segregation, promoted by State law and other State action, replaced it as a device for perpetuating the inferior position of the Negroes. Outlawing of these additional racial barriers, it is argued, is also within the reach of congressional power under 13th amendment, which was intended, along with the 14th and 15th amendments, to raise the Negro to a position of first class citizenship with full civil rights.

The majority of the Court did not adopt Justice Harlan's views, perhaps because at the time the *Civil Rights Cases* were decided State-imposed racial segregation was not yet a widespread fact. It was only in the later 1880's that Jim Crow laws, requiring segregation in establishments dealing with the public, were to spread throughout the South. These were the laws which reimposed on the Negro the badge of inferiority from which the 13th amendment, as read by Justice Harlan, sought to relieve him, and it is these laws, and their aftermath, with which we must deal today.

Thus, the arguments first advanced by Justice Harlan today lend support to the constitutionality of Federal public accommodations legislation under the 13th amendment. It must be recognized, however, that there is no decisional law to support such an approach and that the scope of the 13th amendment power of the Congress is unclear. Consequently, while some aid may be gained from that amendment, it is at best an uncertain foundation, and one not to be relied upon either alone or even in sole conjunction with the 14th amendment.

V

A FEDERAL EQUAL PUBLIC ACCOMMODATIONS LAW DOES NOT VIOLATE EITHER THE 5TH OR 10TH AMENDMENTS

It has been suggested that for Congress to require places of public accommodation not to discriminate would be a taking of private property without due process of law in violation of the 5th amendment and would interfere with powers reserved to the States under the 10th amendment. Both arguments are clearly without merit.

A. The fifth amendment

So far as the fifth amendment is concerned, any Federal regulatory legislation is, to a certain extent, a limitation on the use of private property. "It is of the essence of regulation that it lays a restraining hand on the self-interest of the regulated and that advantages from the regulation commonly fall to others." *Wickard v. Filburn*, 317 U.S. 111, 120. See also *German Alliance Insurance Co. v. Kansas*, 233 U.S. 389.

The type of regulation proposed in title II is hardly novel. Some 32 States presently have public accommodations laws forbidding racial or religious discrimination. Many of these laws date back to the period immediately after the Civil War.

The power of the Federal Government to pass such laws is also clear. See *Boydton v. Virginia*, 304 U.S. 454. "The authority of the Federal Government over intrastate commerce does not differ in extent or character from that retained by the States over intrastate commerce." *United States v. Rock Royal Co-operative*, 307 U.S. 533, 560-570.

B. The 10th amendment

The 10th amendment provides that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." In the annotation of the Constitution, Senate Document No. 170, 82d Congress, 2d session, p. 915, it is pointed out:

"That this provision [the 10th amendment] was not conceived to be a yardstick for measuring the powers granted to the Federal Government or reserved to the States was clearly indicated by its sponsor, James Madison, in the course of the debate which took place while the amendment was pending concerning Hamill-

ton's proposal to establish a national bank. He declared that: "interference with the power of the States was no constitutional criterion of the power of Congress. If the power was not given, Congress could not exercise it; if given, they might exercise it, although it should interfere with the laws, or even the Constitutions of the States."

Prior decisions invalidating Federal legislation on the ground of conflict with the 16th amendment were overruled, expressly or impliedly, in *United States v. Darby*, 312 U.S. 100, 123-124. It is clear that legislation enacted by Congress pursuant to a power delegated to the Federal Government by the Constitution cannot be validly attacked upon the ground that it infringes upon rights reserved to the States by the 10th amendment. See *Eccard's Breweries v. Day*, 235 U.S. 545, 558, where the Supreme Court held that—

"* * * if the act is within the power confided to Congress, the 10th amendment, by its very terms, has no application, since it only reserves to the States 'powers not delegated to the United States by the Constitution.'"

Similarly, speaking of legislation enacted by Congress pursuant to the enforcement clause of the 14th amendment, the Supreme Court has said that State sovereignty cannot, by definition, be invaded by the enactment of a law "which the people of the States have, by the Constitution of the United States, empowered Congress to enact." *Ex parte Virginia*, 100 U.S. 839, 846.

APPENDIX II

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THE POWER OF CONGRESS TO PROHIBIT RACIAL DISCRIMINATION IN PRIVATELY OWNED PLACES OF PUBLIC ACCOMMODATION

(By Vincent A. Doyle, Legislative Attorney, American Law Division,
July 3, 1963)

The recent proposals for Federal legislation to prohibit racial discrimination in hotels, theaters, restaurants, stores and similar establishments which hold themselves open to the general public have been based upon the powers given to Congress under the 14th amendment, the commerce clause, or both. Perhaps the first observation to make is that if neither basis is valid combining them would not cure the invalidity. The second observation is that if one basis is invalid its use in combination does not enhance or detract from the validity of the other. Of course if each basis reaches some activities which are beyond the reach of the other, then using the bases in combination could enlarge the scope of the law.

This paper will discuss some of the cases relevant to an assessment of the validity of each basis and the kinds of private establishment which might be reached under it.

THE POWER OF CONGRESS UNDER THE 14TH AMENDMENT¹

From the cases thus far decided by the Supreme Court, there is one generalization about the power of Congress which can be made without much fear of challenge. The 14th amendment gives Congress no power to prohibit purely private acts of racial discrimination. Sections 1 and 2 of the Civil Rights Act of 1875 (c. 114 secs. 1 and 2, 18 Stat. 835, 836) provided that all persons "shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land and water, theaters, and other places of public amusement; subject only to the conditions and limita-

¹ Secs. 1 and 5 of amendment XIV provide as follows:

"Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

"Sec. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

tions established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude," and punished violations of these rights. However, the Supreme Court held that these sections were unconstitutional as applied to acts of racial discrimination by private persons because under the 14th amendment the power of Congress could reach only State action. *Civil Rights Cases*, 109 U.S. 3 (1883). This case has never been overruled, nor has the basic premise that the 14th amendment reaches only State action been abandoned. Even as recently as May 20, 1963, in *Peterson v. City of Greenville*, 373 U.S. —, the Court stated:

"The evidence in this case establishes beyond doubt that the Kress management's decision to exclude petitioners from the lunch counter was made because they were Negroes. It cannot be disputed that under our decisions 'Private conduct abridging individual rights does no violence to the equal protection clause unless to some significant extent the State in any of its manifestations has been found to have become involved in it.'" *Burton v. Wilmington Parking Authority*, 365 U.S. 715, 722; *Turner v. City of Memphis*, 369 U.S. (id. at 3-4 of the slip opinion).

The holding in the *Civil Rights Cases* is a hurdle for those who would now use the 14th amendment as a basis for new legislation so similar to that which was declared unconstitutional in 1883. They must conclude that, given a new opportunity to consider the matter in the light of subsequent developments, the Supreme Court would find some link (such as licensing) between the individual proprietor and the State that would transform the proprietor's discriminatory act into "State action." (Cf. the dissenting opinion of Justice Harlan in the *Civil Rights Cases* and the concurring opinion of Justice Douglas in *Lombard v. Louisiana*, 373 U.S. — (May 20, 1963)). Although in no case has a majority of the Supreme Court yet found this link in the mere fact that a store or restaurant is licensed by a State to do business, or holds itself open to the public, the acts of some private businesses and organizations have been held to violate the 14th amendment.

In some cases the Court has found the link in the fact that the private organization was performing what was essentially a governmental function. This was the kind of link that led to the demise of the "white primaries." *Smith v. Allwright*, 321 U.S. 649 (1944); *Terry v. Adams*, 345 U.S. 461 (1953). This may also have been the kind of link the Court found in *Marsh v. Alabama*, 326 U.S. 501 (1946). The town of Chickasaw, a suburb of the city of Mobile, Ala., was a "company town" wholly owned by the Gulf Shipbuilding Corp. Except for the fact that it was privately owned, it was much like any other town, with streets and houses and stores. The company had signs posted in stores reading: "This Is Private Property, and Without Written Permission, No Street, or House, Vendor, Agent or Solicitation of Any Kind Will Be Permitted." A member of Jehovah's Witnesses was warned that she could not distribute religious literature without a permit and told that no permit would be issued to her. Nevertheless, she stood on the sidewalk in front of the post office and started distributing her literature. She was asked to leave and refused. A deputy of the Mobile County sheriff, who was paid by the company to act as the town policeman, arrested her for trespass. She was prosecuted and convicted under an Alabama law which makes it a crime to remain on the premises of another after having been warned not to do so. The Court reversed the conviction, indicating that the operation of the town was a public function and that the company's private property rights were not sufficient to justify the State in permitting the company to restrict the fundamental liberties of the townspeople and then use the statutes of the State to enforce those restrictions. The Court seemed to be as much concerned with the rights of the residents to read the religious literature as it was with the right of the witness to distribute it. It did say, however, that—

"The more an owner, for his advantage, opens up his property for use by the public in general, the more do his rights become circumscribed by the statutory and constitutional rights of those who use it." (Id. at p. 506.)

Yet the evil the Court actually reached and struck down was not the restriction established by the private property owner but rather the act of the State enforcing it through its courts. In this respect, the *Marsh* case resembles *Shelley v. Kraemer*, 334 U.S. 1 (1948) and *Barrows v. Jackson*, 346 U.S. 249 (1953).

In *Shelley*, the Court held that judicial enforcement of a racial restrictive covenant by injunction was State action prohibited by the 14th amendment.

In *Barrows*, the Court held that judicial enforcement of such covenants by assessment of damages was prohibited. Yet in each of these cases the Court cited the principle of the *Civil Rights Cases* as one firmly embedded in our constitutional law. Mr. Justice Vinson, in *Shelley*, noted that the 14th amendment "erects no shield against merely private conduct, however discriminatory or wrongful," and said:

"We conclude therefore, that the restrictive agreements standing alone cannot be regarded as violative of any rights guaranteed to petitioners by the 14th amendment. So long as the purpose of those agreements are effectuated by voluntary adherence to their terms, it would appear clear that there had been no action by the State and the provisions of the amendment have not been violated" (334 U.S. 1, 13 (1948)).

In *Barrows*, Mr. Justice Minton cited this language with approval. 340 U.S. 240, 253 (1953).

Some have thought that the Court would extend the principle of *Shelley* and *Barrows* to the sit-in cases. In those cases, Negroes have been arrested for trespass for remaining at white-only lunch counters after the owners had refused to serve them because of their race and then asked them to leave. Although the Court has reversed several such trespass convictions, it has not used *Shelley* to support its conclusions. In one case the prohibited State action was found in a city ordinance which required segregation. *Peterson v. City of Greenville*, 378 U.S. — (decided, May 20, 1963). In another the prohibited State action was found in statements by the mayor and superintendent of police to the effect that the city of New Orleans would not permit Negroes to seek desegregated service in restaurants. Although there was no statute or ordinance requiring segregation, the Court held each of these statements to be an "official command which has at least as much coercive effect as an ordinance." *Lombard v. Louisiana*, 378 U.S. — (slip opinion p. 7, decided May 20, 1963). The existence of the ordinance in the one case and the statements in the other made the private intentions of the property owner irrelevant. Even if the owner would have refused service in the absence of an ordinance the Court's result would not have been changed. No State will be permitted to enforce, by conviction under trespass statutes or otherwise, ordinances or other official commands requiring segregation.

An earlier sit-in case arising in Louisiana was disposed of on the ground that evidence that the defendants sat peacefully in a place where custom decreed they could not sit was not sufficient to convict them of the crime of disturbing the peace as defined in the Louisiana statutes. *Garner v. Louisiana* (308 U.S. 157 (1961)).

The Court found another kind of link with the State in the discriminatory act of a private restaurant operator in *Burton v. Wilmington Parking Authority* (365 U.S. 715 (1961)). This involved the refusal of service to a Negro by a private restaurant operator on premises leased from an agency of the State of Delaware. The restaurant was located in a building constructed with public funds and used for a public purpose, that is, a municipal parking facility. The restaurant was one of several leased areas in the facility which the Court found to be an "indispensable part of the State's plan to operate its project as a self-sustaining unit" (id. at pp. 723-724). The opinion by Mr. Justice Clark very carefully pointed out that the Court's conclusions in this case could not be considered "universal truths on the basis of which every State leasing agreement is to be tested" (id. at p. 725). In defining the limits of its inquiry, the Court stated:

"* * * what we hold today is that when a State leases public property in the manner and for the purpose shown to have been the case here, the proscriptions of the 14th amendment must be complied with by the lessee as certainly as though they were binding covenants written into the agreement itself" (id. at p. 726).

If the Court is this reluctant to find a State action link in all State leasing agreements, what indication is there that the Court would be any more willing to find such link in State licenses? In the case of State licenses in the nature of a franchise, the monopolistic or semimonopolistic kind of license given to public utilities, common carriers, and the like, the link is unquestionably there. No privately operated transit system or electric light company could discriminate without violating the prohibition of the 14th amendment. See e.g., *Public Utilities Commission v. Pollak* (343 U.S. 451 (1952)). (Although this dealt with Federal action, and did not involve race, the principles involved are similar to

those concerned with State action involving racial discrimination. In *Boman v. Birmingham Transit Co.* (280 F. 2d 531 (1960)), the rules of a bus company requiring segregated seating were held to be a State act. The Court, however, considered two factors: (1) The company operated under a franchise from the State and thus differed from an ordinary corporation; (2) a city ordinance had authorized the company to issue rules for seating of passengers and had made willful refusal to obey a reasonable request of the bus operator relating to seating a breach of the peace.)

With respect to businesses like restaurants, for which, if any license at all is required, there is no need for a showing of public convenience and necessity but simply the payment of an annual tax, the Supreme Court has not yet found the link which would transform the discriminatory act of the business into an act of the State and therefore a prohibited one.

The Court of Appeals for the Fourth Circuit considered the license argument in 1959 and rejected it. *Williams v. Howard Johnson's Restaurant* (268 F. 2d 845 (4 cir. 1959)), involved a restaurant's refusal to serve a Negro solely because of his race. The plaintiff conceded that there was no State statute which required the proprietor to refuse him service but pointed to the statutes which required segregation of the races in carriers and by persons engaged in the operation of places of public assemblage. He also emphasized the long-established local custom of excluding Negroes from public restaurants and contended that the acquiescence of the State in these practices amounted to State action violative of the provisions of the 14th amendment. Another theory on which the plaintiff argued was that since the State licensed the restaurant it had a positive duty to prohibit racial discrimination in the use and enjoyment of its facilities. The court stated that unless these discriminatory acts were performed in obedience to some positive provision of State law there would be no basis for a complaint. The court concluded that the restaurant was at liberty to deal with such persons as it might select.* (The court also rejected the theory that the discrimination was forbidden because the restaurant was engaged in interstate commerce. This theory will be mentioned subsequently under the Commerce Clause.)

Although the Supreme Court continually emphasizes that no inferences may be drawn from a denial of certiorari, there are two cases it had an opportunity to consider but did not which should be mentioned. In *Gordon v. Gordon* (332 Mass. 197, 124 N.E. 2d 228, cert. denied, 349 U.S. 947 (1955)), a will provided for revocation of a testamentary gift to any child who married a person not born in the Jewish faith. The lower court entered a decree revoking a gift to a son who married a Catholic girl. The Supreme Judicial Court of Massachusetts upheld the decree against arguments, based on *Shelley v. Kraemer* and *Barrios v. Jackson* (both *supra*), that court enforcement of such a discriminatory will provision violated the 14th amendment. A discriminatory will provision was also involved in *In re The Girard College Trusteeship* (301 Pa. 434, 138 A. 2d 844 (1958)). Girard's will established a trust for a private school for white male orphans and named the city of Philadelphia as trustee. Ultimately the trust was administered by a city board established by State statute. When it first considered this case the Supreme Court held that under these circumstances the 14th amendment prohibited denial of admission to a Negro male orphan because of his race. Thereafter, instead of ordering the public trustees to admit qualified Negro applicants, the Pennsylvania orphans court substituted private trustees for the city board of directors. The private trustees continued to deny admission to Negroes. The Supreme Court of Pennsylvania upheld their right to do so. The Commonwealth of Pennsylvania appealed from this decision. The U.S. Supreme Court, in a per curiam opinion, dismissed the appeal and, treating the appeal as a petition for certiorari, denied certiorari. *Pennsylvania v. Board of Directors* (357 U.S. 570 (1958)). If we were permitted to make an inference from these cases, the obvious one to make is that the State will be permitted to enforce discriminatory wills through its legal processes but not discriminatory racial covenants. However, no inference should be made from a denial of certiorari.

* Had the plaintiff argued that the Code of Virginia (1950), title 18, sec. 327, required segregation in the restaurant the result might have been different. The same plaintiff is urging this proposition in a new case.

Conclusions on the 14th amendment approach

It is clear from the cases thus far decided by the Supreme Court that it has not yet held that, where a State or one of its political subdivisions exercises no element of coercion upon a business to discriminate, the business is not free to discriminate without violating the prohibitions of the 14th amendment. On the contrary, even when it has found some element of prohibited State action (as in *Shelley v. Kraemer*), the Court has often commented that individual acts are beyond the reach of the 14th amendment. It is not at all clear, however, whether or to what extent, the Court will depart from or distinguish the holding in the *Civil Rights Cases* of 1883 when it considers the effect of the 14th amendment on a private business conducted in a State which neither prohibits nor requires discrimination but leaves the businessman free to make his own choice. There are several approaches the Court might take, but before discussing them, there is an important observation to be made about the power of Congress to influence the Court's approach by adopting the proposed legislation.

Under its 14th amendment powers Congress can prohibit no act of discrimination which is not already prohibited by the 14th amendment. In this respect the 14th amendment power differs from the commerce power, a distinction which will be discussed subsequently under the Commerce Clause. Moreover, if the proposed legislation were to be held constitutional, it would give no one, except perhaps the Attorney General, any right of action which he does not already have under the provision of 42 U.S.C. 1983. That is the section which gives a right of action at law or in equity to any person who "under color of any statute, ordinance, regulation, custom, or usage of any State" has been deprived by another person "of any rights, privileges, or immunities secured by the Constitution and laws * * *." The rights, privileges and immunities mentioned in this section include the 14th amendment rights to due process and equal protection of the laws. *Hague v. Congress of Industrial Organizations*, 307 U.S. 496 (1939). If it be constitutional for Congress now to give a right of action to any one discriminated against because of race or color by another "in the conduct of a business authorized by a State" as one bill would do, or by some one who acts as "a proprietor, manager, or employee of any business or business activity affecting the public which is conducted under a State license" as another bill would do, Congress has already given such right of action, though in less specific terms, in 42 U.S.C. 1983.

1. It is conceivable that by reading some of the statements in Mr. Justice Bradley's opinion in the *Civil Rights Cases* very carefully the Court might, as some have argued it will, in some States reach even Mrs. Murphy's boardinghouse without departing far from his rationale. Examples of such statements are Justice Bradley's acknowledgment that custom can sometimes have the force of law, and his suggestion that if States were not giving a right of action to Negroes against those who deprived them of their rights Congress could adopt corrective legislation. Many observers conclude, however, that the Court will not decide that when Mrs. Murphy segregates, she violates the 14th amendment, at least in those localities where neither the law, nor custom which has the force of law, compels her to segregate.

2. The Court may extend the doctrine of *Shelley v. Kraemer* (*supra*). As applied to Mrs. Murphy, this would mean that although she was free to refuse to serve a Negro, the State would not be free to convict him of trespass if he refused to leave. Most commentators feel that this would result in chaos. It would leave Mrs. Murphy free to exercise her common law right to use reasonable force to eject the unwanted customer but would deprive her of any right to call upon the State to help her if she had insufficient force at her disposal. She would be in the same position as the seller of land who incorporated a restrictive covenant in his deed. She would have a right but not legal remedy for its violation.

Whether such extension of *Shelley v. Kraemer* would be wise or not, its adoption by the Court would give Congress no more power under the 14th amendment to prevent Mrs. Murphy from segregating than it has now to enact a law preventing anyone from entering into a racial restrictive covenant.

3. The Court might extend to Mrs. Murphy the doctrine of *Terry v. Adams* (*supra*). That was the case which prohibited the Jaybird Party in Texas, a private club, from excluding Negroes because the function it performed was an integral part of the election process even though not formally recognized by State law. The function the club performed was so much a public function that its private act of discrimination constituted "State action" prohibited by the

15th amendment. (The "State action" concept is embraced in the 15th amendment, just as it is in the 14th). If the Court were to adopt this approach and find that Mrs. Murphy were performing so public a function that her act was a State act, then of course Congress under the 14th amendment power could prohibit Mrs. Murphy from discriminating.

4. The Court might take as its standard the statement from *Marsh v. Alabama*, 326 U.S. 501, 506 (1946):

"The more an owner, for his advantage, opens up his property for use by the public in general, the more do his rights become circumscribed by the statutory and constitutional rights of those who use it."

This would require the Court not only to liken Mrs. Murphy's store to a company town, but also to find that Mrs. Murphy's right to select her own customers must yield to her customer's rights to make purchases in her store. Thus, far, that customer's right has not been held to exist.

It would be presumptuous to anticipate which of these approaches the Court might take or whether it might take another which has not been considered here. The significant fact is that, except insofar as it is applicable to the kind of public utility or public service organization whose private acts of discrimination have already been held to be State action prohibited by the 14th amendment, a definitive judgment as to the constitutionality of the proposed public accommodations legislation must await a decision of the Supreme Court.

THE POWER OF CONGRESS UNDER THE COMMERCE CLAUSE

It was stated earlier that the power of Congress under the Commerce Clause differed from its power under the 14th amendment. The 14th amendment gives Congress only the power to enforce its provisions by appropriate legislation. It can prohibit no act of discrimination which it not already prohibited by the amendment. On the other hand, the power of Congress "to regulate Commerce * * * among the States" is a plenary power under which Congress can regulate and prohibit activities which would not be prohibited by the Commerce Clause in the absence of an act of Congress. One example might make this distinction clear. There is nothing in the Constitution which prohibits the transportation in interstate commerce of goods manufactured by laborers who are paid only 10 cents an hour and work 16 hours a day, 7 days a week. However, in the exercise of its commerce power, Congress may establish minimum wages and maximum hours for employees engaged in the production of goods for interstate commerce and forbid an employer to pay his employees less or work them longer than the law allows. *U.S. v. Darby*, 312 U.S. 100 (1941). Mr. Justice Bradley recognized this distinction in his opinion in the *Civil Rights Cases*, 100 U.S. 3 (1883), stating that his remarks on the restricted nature of the power of Congress under the 14th amendment "do not apply to those cases in which Congress is clothed with direct and plenary powers of legislation over the whole subject" as it is in the Commerce Clause.

Although the commerce power has been said to be plenary this is not to say that every attempted exercise of it is constitutional. On several occasions the Supreme Court has held that Congress overreached its power. In *United States v. Dewitt*, 9 Wall. 41 (1860) the Court held unconstitutional an internal revenue provision making it a misdemeanor to mix for sale naphtha and illuminating oils, or to sell such mixture, on the ground that it was a police regulation, relating exclusively to the internal trade of the States and not supported by the commerce power. The *Trade Mark Cases*, 100 U.S. 82 (1879) held unconstitutional the original trademark act and certain penal provisions enforcing it because its language was intended to embrace commerce between citizens of the same State. More recently the original child labor law was held unconstitutional in *Hammer v. Dagenhart*, 247 U.S. 251 (1918). In *Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935) the commerce power was said not to reach the sale of unfit chickens by a wholesale poultry dealer who purchased chickens shipped in from other States for resale to retail dealers. While acknowledging the power of Congress to regulate intrastate matters "affecting" commerce as well as commerce itself, the Court thought that it could not reach acts having only an indirect effect:

* Art. I, sec. 8, clause 3 of the Constitution gives Congress the power "To regulate Commerce with foreign Nations, and among the several States and with the Indian Tribes."

"But where the effect of intrastate transactions upon interstate commerce is merely indirect, such transactions remain within the domain of State power. If the Commerce Clause were construed to reach all enterprises and transactions which could be said to have an indirect effect upon interstate commerce, the Federal authority would embrace practically all the activities of the people and the authority of the State over its domestic concerns would exist only by sufferance of the Federal Government" (Id. at 546).

In *Carter v. Carter Coal Co.*, 208 U.S. 238 (1936), the Court held that the Bituminous Coal Conservation Act of 1935, which attempted among other things to regulate the wages and hours of coal miners was not sustained by the Commerce Clause.

If, like the holding in the *Civil Rights Cases*, the holdings in these and other cases settling limits upon the power of Congress under the Commerce Clause had come down to us unimpaired or almost unimpaired, the Commerce Clause might be no better a basis for legislation prohibiting private acts of discrimination in hotels, restaurants, retail stores, and the like than the 14th amendment would be. Unlike the *Civil Rights Cases*, however, many of these cases have been expressly overruled as was *Hammer v. Dagenhart* in *United States v. Darby*, 312 U.S. 100, 115-117; or limited, as was *Carter v. Carter Coal Co.*, in the same case, Id. at 123; or distinguished and explained so frequently that they might as well have been overruled, which is the fate the *Schechter* case has met in *National Labor Relations Board v. Jones and Laughlin Steel Corp.*, 301 U.S. 1 (1937) upholding provisions of the National Labor Relations Act of 1935 and *United States v. Wrightwood Dairy Co.*, 315 U.S. 100 (1942), upholding the power of Congress to regulate intrastate commerce in milk affecting interstate commerce in that commodity.

In *United States v. Darby*, *supra*, the Court said:

"The power of Congress over interstate commerce is not confined to the regulation of commerce among the States. It extends to those activities intrastate which so affect interstate commerce or the exercise of the power of Congress over it as to make regulation of them appropriate means to the attainment of a legitimate end, the exercise of the granted power of Congress to regulate the interstate commerce" (312 U.S. 100, 118 (1939)).

Then, after noting that, in the absence of congressional legislation on the subject, State laws which do not obstruct commerce are not forbidden even though they affect interstate commerce, the Court continued:

"But it does not follow that Congress cannot by appropriate legislation regulate intrastate activities where they have a substantial effect on interstate commerce. See *Santa Cruz Fruit Packing Co. v. National Labor Relations Board*, 303 U.S. 453, 460. A recent example is the National Labor Relations Act for the regulation of employer and employee relations in industries in which strikes, induced by unfair labor practices named in the act, tend to disturb or obstruct interstate commerce. See *National Labor Relations Board v. Jones and Laughlin Steel Corp.*, 301 U.S. 1, 38, 40; *National Labor Relations Board v. Fainblatt*, 306 U.S. 601, 604, and cases cited. But long before the adoption of the National Labor Relations Act this Court had many times held that the power of Congress to regulate interstate commerce extends to the regulation through legislative action of activities intrastate which have a substantial effect on the commerce or the congressional power over it" (Id. at 119-20).

In a footnote the Court listed some of the activities it had held Congress could regulate:

"It may prohibit wholly intrastate activities which, if permitted, would result in restraint of interstate commerce. *Coronado Coal Co. v. United Mine Workers*, 268 U.S. 205, 310; *Local 167 v. United States*, 201 U.S. 203, 207. It may regulate the activities of a local grain exchange shown to have an injurious effect on interstate commerce. *Chicago Board of Trade v. Olsen*, 262 U.S. 1. It may regulate intrastate rates of interstate carriers where the effect of the rates is to burden interstate commerce. *Houston, E. & W. Texas Ry. Co. v. United States*, 234 U.S. 342; *Railroad Commission of Wisconsin v. Chicago, B. & Q. R. Co.*, 257 U.S. 563; *United States v. Louisiana*, 200 U.S. 70, 74; *Florida v. United States*, 202 U.S. 1. It may compel the adoption of safety appliances on rolling stock moving intrastate because of the relation to and effect of such appliances upon interstate traffic moving over the same railroad. *Southern Ry. Co. v. United States*, 222

U.S. 20. It may prescribe maximum hours for employees engaged in intrastate activity connected with the movement of any train, such as train dispatchers and telegraphers" (*Baltimore & Ohio R. Co. v. Interstate Commerce Comm'n*, 221 U.S. 612, 619. *Id.* at 120).

The Court then described the functions of Congress and the Court with respect to determining the scope and validity of such legislation:

In such legislation Congress has sometimes left it to the courts to determine whether the intrastate activities have the prohibited effect on the commerce, as in the Sherman Act. It has sometimes left it to an administrative board or agency to determine whether the activities sought to be regulated or prohibited have such effect, as in the case of the Interstate Commerce Act, and the National Labor Relations Act, or whether they come within the statutory definition of the prohibited act, as in the Federal Trade Commission Act. And sometimes Congress itself has said that a particular activity affects the commerce, as it did in the present act, the Safety Appliance Act and the Railway Labor Act. In passing on the validity of legislation of the class last mentioned the only function of courts is to determine whether the particular activity regulated or prohibited is within the reach of the Federal power. See *United States v. Ferger*, *supra*; *Virginian Ry. Co. v. Federation*, 300 U.S. 515, 553.

Congress, having by the present act adopted the policy of excluding from interstate commerce all goods produced for the commerce which do not conform to the specified labor standards, it may choose the means reasonably adapted to the attainment of the permitted end, even though they involve control of intrastate activities. Such legislation has often been sustained with respect to powers, other than the commerce power granted to the National Government, when the means chosen, although not themselves within the granted power, were nevertheless deemed appropriate aids to the accomplishment of some purpose within an admitted power of the National Government. See *Jacob Ruppert, Inc. v. Caffey*, 251 U.S. 264; *Everard's Breweries v. Day*, 265 U.S. 545, 560; *Westfall v. United States*, 274 U.S. 259, 269. As to State power under the 14th amendment, compare *Otto v. Parker*, 187 U.S. 606, 609, *St. John v. New York*, 201 U.S. 633; *Purity Extract & Tonic Co. v. Lynch*, 226 U.S. 192, 201-202. A familiar like exercise of power is the regulation of intrastate transactions which are so commingled with or related to interstate commerce that all must be regulated if the interstate commerce is to be effectively controlled. *Shreveport case*, 234 U.S. 342; *Railroad Commission of Wisconsin v. Chicago, B. & O. R. Co.*, 257 U.S. 563; *United States v. New York Central R. Co.*, *supra*, 484; *Currin v. Wallace*, 306 U.S. 1; *Mulford v. Smith*, *supra*. Similarly Congress may require inspection and preventive treatment of all cattle in a disease-infected area in order to prevent shipment in interstate commerce of some of the cattle without the treatment. *Thornton v. United States*, 271 U.S. 414. It may prohibit the removal, at destination, of labels required by the Pure Food and Drugs Act to be affixed to articles transported in interstate commerce. *McDermott v. Wisconsin*, 228 U.S. 115. And we have recently held that Congress in the exercise of its power to require inspection and grading of tobacco shipped in interstate commerce may compel such inspection and grading of all tobacco sold at local auction rooms from which a substantial part but not all of the tobacco sold is shipped in interstate commerce. *Currin v. Wallace*, *supra*, 11, and see to the like effect *United States v. Rock Royal Co-op.*, *supra*, 568, note 37, *id.*, at 120-122.

Under the Fair Labor Standards Act held constitutional in the *Darby* case, Congress regulated the wages of any employee engaged in any process or occupation "necessary to the production" of goods for interstate commerce in any State. Among the employees held covered under the act were warehouse and central office employees of an interstate retail chainstore system; the employees of an electrical contractor, locally engaged in commercial and industrial wiring and dealing in electrical motors and generators for commercial and industrial use, whose customers are engaged in the production of goods for interstate commerce; employees of a window-cleaning company, the greater part of whose work is done on the windows of industrial plants of producers of goods in interstate commerce. Even publishers of a daily newspaper only about one-half of 1 percent of whose circulation is outside the State were held to be engaged in the production of goods for commerce. *Mabee v. White Plains Publishing*

Co. (327 U.S. 178 (1946)). (It should be noted that, in the Fair Labor Standards Act, Congress did not intend to reach every activity which could be reached under its commerce power. For a longer list of occupations held to fall both within and without the scope of the act, as well as citations to the cases, see note 6, pp. 157-58, "The Constitution of the United States of America, Revised and Annotated 1952," S. Doc. 170, 82d Cong. 2d sess.; p. 118-253 of that volume discuss the Supreme Court cases interpreting the Commerce Clause.)

The National Labor Relations Act has a broader scope than the Fair Labor Standards Act and enables the NLRB to reach activities "affecting commerce" as defined in section 2(7) (61 Stat. 138, 29 U.S.C. 142(7)). In *Meat Cutters v. Fairlawn Meats* (353 U.S. 20 (1957)) the Court held the act applicable to a retailer operating three meat markets in and around Akron, Ohio, even though all of its sales were intrastate and only slightly more than \$100,000 of its annual purchases of almost \$900,000 came directly from outside Ohio saying:

"We do not agree that respondent's interstate purchases were so negligible that its business cannot be said to affect interstate commerce within the meaning of section 2(7) of the National Labor Relations Act." (Id. at 22.)

In another comment upon the reach of section 2(7) the Court said in *Polish Alliance v. Labor Board* (322 U.S. 643, 648. (1944)):

"Congress therefore left it to the Board to ascertain whether proscribed practices would in particular situations adversely affect commerce when judged by the full reach of the constitutional power of Congress. Whether or not practices may be deemed by Congress to affect interstate commerce is not to be determined by confining judgment to the quantitative effect of the activities immediately before the Board. Appropriate for judgment is the fact that the immediate situation is representative of many others throughout the country, the total incidence of which if left unchecked may well become far reaching in its harm to commerce."

It is perhaps the case of *Wickard v. Filburn* (217 U.S. 111 (1942)) which illustrates most dramatically the extent to which the commerce power can reach intrastate activities. Filburn harvested 239 more bushels of wheat than he was allowed to under an Agricultural Adjustment Act of 1938 allotment. This subjected him to penalties under the act which did not depend upon whether any part of his wheat, either within or without his quota, was sold or intended to be sold. Filburn contended that to penalize him for growing wheat on his own farm to be consumed on his own farm was beyond the reach of congressional power since these are local activities and their effect on commerce is at most "indirect." The Court said that questions of the power of Congress were to be decided not by reference to any formula based on words like "direct" but rather upon "consideration of the actual effects of the activity in question upon interstate commerce" (Id. at 120). In holding that even as applied to wheat not intended for commerce but strictly for home consumption the act was within the commerce power of Congress, the Court stated that the effect of the statute was "to restrict the amount of wheat which may be produced for market and the extent as well to which one may forestall resort to the market by producing to meet his own needs. That appellee's own contribution to the demand for wheat may be trivial is not enough to remove him from the scope of Federal regulated where, as here, his contribution, taken together with that of many others similarly situated, is far from trivial" (Id. at 127-128). The Court also observed:

"This record leaves us in no doubt that Congress may properly have considered that wheat consumed on the farm where grown, if wholly outside the scheme of regulation, would have a substantial effect in defeating and obstructing its purpose to stimulate trade therein at increased prices" (Id. at 128-129).

The Supreme Court has also held that in the exercise of its commerce power Congress may prohibit racial discrimination. *Boynton v. Virginia* (364 U.S. 454 (1960)). A Virginia court had held that a Negro interstate bus passenger who refused to leave a white-only restaurant in the bus terminal after being denied service and ordered to leave was properly convicted of trespass under a Virginia statute. The Supreme Court held that under section 216(d) of the Interstate Commerce Act (49 U.S.C. 316(d)), which forbids any interstate common carrier by motor vehicle to subject any person to unjust discrimination, the Negro had a Federal right to be served in the restaurant and Virginia could not convict him of trespass for remaining even after he had been ordered to leave. Though

the restaurant was not operated by the carrier it was operated as a part of the carrier's terminal facilities and was therefore embraced within the prohibitions of the act. The Court was careful to point out that it was not deciding that the act required unsegregated service every time a bus stops at a roadside restaurant. It should be observed, on the other hand, that the Court said nothing one way or the other about the power of Congress under the Commerce Clause to require unsegregated service every time an interstate bus stopped at a roadside restaurant.

In the earlier discussion of the 14th amendment aspects of the case of *Williams v. Howard Johnson's Restaurant* (268 F. 2d 845 (4 Cir. 1959, *supra*, pp. 8-9), it was mentioned that the court rejected the theory that the restaurant was forbidden to discriminate because it was engaged in interstate commerce. It should be observed that in this case the court was considering not the power of Congress under the Commerce Clause, for there was no statute involved, but rather the reach of the Commerce Clause unimplemented by any congressional regulation. The distinction is a most important one.

Conclusions on the Commerce Clause approach

From the cases thus far decided it seems clear that under the Commerce Clause, Congress can prohibit racial discrimination. It is also clear, that, under its commerce power, Congress can reach intrastate activities if they have a substantial effect upon commerce. The cases hold that the commerce power can reach retailers whose sales are wholly intrastate and only one-ninth of whose purchases are made out of State. *Meat Cutters v. Fairlawn Meats, supra*. The cases hold that Congress can reach a farmer who grows wheat on his own farm for his own consumption even though the amount he grows may be trivial. *Wickard v. Filburn supra*. Yet it is implicit in even the broadest holdings on the scope of the commerce power, that Congress cannot reach activities which do not in fact have a significant effect upon commerce, or upon the exercise by Congress of the power to regulate commerce.

We do not know whether Congress can reach racial discrimination to the same extent that it can reach other activities under the Commerce Clause.

There would seem to be nothing in the decided cases, however, to indicate that the Court would not apply the same standards it has applied in cases dealing with the regulation of prices, wages, hours, labor relations, or any other attempt by Congress to exercise the full extent of its powers under the Commerce Clause.

Under the 14th amendment, Congress can reach "only such action as may fairly be said to be that of the States," *Shelley v. Kraemer*, 334 U.S. 1, 13 (1948). Under the Commerce Clause, the power of Congress extends to all interstate activities and also "to those activities intrastate which so affect commerce or the exercise of the power of Congress over it as to make regulation of them appropriate means to the attainment of a legitimate end * * *." *United States v. Darby*, 312 U.S. 100, 118 (1939). Whether the Congress uses one power or the other as the basis for a law prohibiting racial discrimination in public accommodations, the Court will be required to make the ultimate determination of the law's constitutionality, not in general terms but on the basis of its application to particular activities. Although it seems likely that, in the present state of the law, Congress can reach more activities under the Commerce Clause than it can under the 14th amendment, one cannot be certain whether Mrs. Murphy's roominghouse or Mrs. Murphy's grocery store can be reached under either power.

If Mrs. Murphy's act may fairly be said to be that of the State the 14th amendment already reaches her.

If Mrs. Murphy's act so affects commerce as to make its regulations appropriate, Congress can reach her act under its commerce power.

But just as it would be presumptuous to try to anticipate whether the Court will follow the *Civil Rights Cases*, or *Shelley v. Kraemer*, or *Mursh v. Alabama* if the Congress adopts the 14th amendment approach, it would be presumptuous to try to anticipate what approach it will take if Congress acts under the commerce power.

Whether the Court will find that a law prohibiting Mrs. Murphy from discriminating in the rental of her rooms or the sale of her canned goods is unconstitutional because it is a police regulation, relating exclusively to the internal trade of the States, as in *United States v. Deitt*, 9 Wall. 41 (1860), or because it is intended to embrace commerce between citizens of the same State, as in the *Trade Mark* cases, 100 U.S. 82 (1879), or find the law constitutional after weighing not just the quantitative effect on interstate commerce of Mrs. Murphy's act but also "the fact that the immediate situation is representative of many others throughout the country, the total incidence of which if left unchecked may well become far reaching in its harm to commerce," as it said should be done in the *Pollak Alliance* case (*supra*, p. 24), is an appropriate judgment for us to make.

APPENDIX III

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STATE STATUTES
PROHIBITING DISCRIMINATION
IN
PLACES OF PUBLIC ACCOMMODATION



By
Coler T. Butcher
Legislative Attorney
American Law Division
June 27, 1963.

Washington 25, D.C.

The following is a compilation as of June 26, 1963 of state statutes which either (1) expressly prohibit discrimination on account of race or color in places of public accommodations or (2) generally declare the right of all citizens to the full enjoyment of public accommodations.

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Washington 88 D.C.

ALASKA

[Alaska Comp. Laws §§20-1-3 - 20-1-4]

Chapter 49

An Act

Providing that all persons are entitled to the free and equal enjoyment of accommodations, amusements, conveyances, and other business establishments; amending Secs. 20-1-3 and 20-1-4, ACLA 1949, as amended by Ch. 21, SLA 1949; and providing for an effective date.

(H.B. 8)

Be it enacted by the Legislature of the State of Alaska:

Section 1. Sec. 20-1-3, ACLA 1949, is amended to read:

Sec. 20-1-3. Persons Entitled to Full and Equal Accommodations, Facilities, and Privileges. All persons within the jurisdiction of the State of Alaska shall be entitled to the full and equal enjoyment of accommodations, advantages, facilities, and privileges of public inns, restaurants, eating houses, hotels, motels, soda fountains, soft drink parlors, taverns, roadhouses, trailer parks, resorts, camp grounds, barber shops, beauty parlors, bathrooms, resthouses, theatres, swimming pools, skating rinks, golf courses, cafes, ice cream parlors, transportation companies, and all conveyances, housing accommodations, and all other public amusement and business establishments, subject only to the conditions and limitations established by law and applicable alike to all persons; and any denial of the use of the foregoing facilities by reason of race, creed, or color of the applicant therefore shall be a violation of this section. Public amusement and business establishments within the meaning of this section shall include any establishment which caters or offers its services or goods to the general public, including but not limited to public housing and all forms of publicly assisted housing, and any housing accommodation offered for sale, rent, or lease.

Sec. 2. Sec. 20-1-4, ACLA 1949, as amended by Ch. 21, SLA 1949, is amended to read:

Sec. 20-1-4. Violation as Misdemeanor; Punishment. Any person who shall violate or aid or incite a violation of said full and equal enjoyment or any person who shall display any printed or written sign indicating a discrimination on racial grounds of said full and equal enjoyment shall be deemed guilty of a misdemeanor and upon con-

viction thereof shall be punished by imprisonment in jail for not more than 30 days, or fined not more than \$500, or both.

Sec. 3. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved April 3, 1962

CALIFORNIA

[California Civ. Code Secs. 51-52 (Supp. 1962)]Sec. 51. Unruh Civil Rights Act; equal rights; business establishments.

This section shall be known, and may be cited, as the Unruh Civil Rights Act.

All persons within the jurisdiction of this State are free and equal, and no matter what their race, color, religion, ancestry, or national origin are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

This section shall not be construed to confer any right or privilege on a person which is conditioned or limited by law or which is applicable alike to persons of every color, race, religion, ancestry, or national origin. (As amended Stats. 1959, c. 1866, p. 4424, Sec. 1; Stats. 1961, c. 1187, p. 2920, Sec. 1.)

Sec. 52. Denial or discrimination; damages

Whoever denies, or who aids, or incites such denial, or whoever makes any discrimination, distinction or restriction on account of color, race, religion, ancestry, or national origin, contrary to the provisions of Section 51 of this code, is liable for each and every such offense for the actual damages, and two hundred fifty dollars (\$250) in addition thereto, suffered by any person denied the rights provided in Section 51 of this code. (As amended Stats. 1959, c. 1866, p. 4424, Sec. 2.)

COLORADO

[Colorado Rev. Stat. Ann. Secs. 25-1-1--25-2-5 (1953)]

25-1-1. Equality of privileges to all persons. - All persons within the jurisdiction of the state shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities and privileges of inns, restaurants, eating houses, barber shops, public conveyances on land or water, theatres, and all other places of public accommodation and amusement, subject only to the conditions and limitations established by law and applicable alike to all citizens.

25-1-2. Penalty and civil liability. - Any person who shall violate any of the provisions of section 25-1-1 by denying to any citizen, except for reasons applicable alike to all citizens of every race and color, and regardless of color or race, the full enjoyment of any of the accommodations, advantages, facilities or privileges in said section enumerated, or by aiding or inciting such denial, for every such offense shall forfeit and pay a sum of not less than fifty dollars nor more than five hundred dollars to the person aggrieved thereby, to be recovered in any court of competent jurisdiction in the county where said offense was committed; and also for every such offense be deemed guilty of a misdemeanor; and upon conviction thereof, shall be fined in any sum not less than ten dollars, or more than three hundred dollars, or shall be imprisoned not more than one year, or both. A judgment in favor of the party aggrieved, or punishment upon an indictment or information shall be a bar to either prosecution, respectively.

25-1-3. Jurisdiction of justice of peace—trial. - Justices of the peace in the county where the offense is committed shall have jurisdiction in all civil actions brought under this article to recover damages, to the extent of the jurisdiction of justices of the peace to recover a money demand in other actions. Either party shall have the right to have the cause tried by jury and to appeal from the judgment of the justice, in the same manner as in other civil suits.

25-1-4. Appeal to county court. - When such action shall be brought originally before a justice of the peace and an appeal taken from the judgment of the justice to the county court, such court, upon the trial de novo of such appeal, shall have jurisdiction to render a judgment for a sum exceeding the jurisdiction of the justice, in the same manner as though such suit had originally been begun in such county court. The plaintiff, within thirty days after the transcript

is filed in the county court, shall file his complaint, and process shall issue against the defendant, and the cause shall proceed in all respects the same as in original actions brought in such court.

25-2-1. Publishing of discriminative matter forbidden. -

No person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort, or amusement, directly or indirectly, by himself, or anybody else, shall publish, issue, circulate, send, distribute, give away or display in any way, manner, shape, means or method, except as hereinafter provided, any communication, paper, poster, folder, manuscript, book, pamphlet, writing, print, letter, notice or advertisement of any kind, nature or description, intended or calculated to discriminate or actually discriminating against any religious sect, creed, denomination or nationality, or against any of the members thereof in matter of furnishing or neglecting or refusing to furnish to them or any one of them, any lodgings, housing, schooling, tuition, or any accommodations, right, privilege, advantage or convenience offered to or enjoyed by the general public; or to the effect that any of the accommodations, rights, privileges, advantages or conveniences of any such place of public accommodation, resort or amusement shall or will be refused, withheld from or denied to any person or persons or class of persons on account of race, sect, creed, denomination or nationality; or that the patronage, custom, presence, frequenting, dwelling, staying or lodging at such place of any person, persons, or class of persons belonging to or purporting to be of any particular race, sect, creed, denomination or nationality, is unwelcome, objectionable, or not acceptable, desired or solicited.

25-2-2. Presumptive evidence. - The production of any such communication, paper, folder, manuscript book, pamphlet, writing, print, letter, notice or advertisement, purporting to relate to any such place and to be made by any person being the owner, lessee, proprietor, agent, superintendent, manager or employee thereof, shall be presumptive evidence in any civil or criminal action or prosecution that the same was authorized by such person.

25-2-3. Places of public accommodation, resort or amusement. - A place of public accommodation, resort or amusement, within the meaning of this article, shall be deemed to include any inn, tavern or hotel, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those

seeking health, recreation or rest, any restaurant, eating house, public conveyance on land or water, bath house, barber shop, theater and music hall.

25-2-4. Exceptions. - Nothing contained in this article shall be construed to prohibit the mailing of a private communication in writing sent in response to specific written inquiry.

25-2-5. Penalty. - Any person who shall violate any of the provisions of this article, or who shall aid in or incite, cause or bring about in whole or in part the violation of any of such provisions, for each and every violation thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars, or shall be imprisoned not less than thirty days, nor more than ninety days, or both such fine and imprisonment.

CONNECTICUT

[Conn. Gen. Stat. Rev. 1153-35, 53.36 (Supp. 196)]

Sec. 53-35. Discrimination in public accommodations, rental housing and sale of building lots on account of race, creed or color.

(a) All persons within the jurisdiction of this state shall be entitled to full and equal accommodations in every place of public accommodation, resort or amusement, subject only to the conditions and limitations established by law and applicable alike to all persons; and any denial of such accommodation by reason of race, creed or color of the applicant therefor shall be a violation of the provisions of this section. Any discrimination, segregation or separation, on account of race, creed or color, shall be a violation of this section. A place of public accommodation, resort or amusement within the meaning of this section means any establishment, which caters or offers its services or facilities or goods to the general public including, but not limited to, public housing projects and all other forms of publicly assisted housing, and further including any housing accommodation or building lot, on which it is intended that a housing accommodation will be constructed, offered for sale or rent which is one of three or more housing accommodations or building lots all of which are located on a single parcel of land or parcels of land that are contiguous without regard to highways or streets, and all of which any person owns or otherwise controls the sale or rental thereof or has owned or otherwise controlled the sale or rental thereof within one year prior to an act in violation of this section. In determining ownership or control of a particular number of housing accommodations or lots for purposes of this section, all housing accommodations or lots which are owned or controlled, directly or indirectly, by the same interests shall be deemed to be owned or controlled by one person. Any person who violates any provision of this section shall be fined not less than twenty-five nor more than one hundred dollars or imprisoned not more than thirty days or both. (b) This section shall not apply to proceedings pending before the civil rights commission or in any court on October 1, 1961. (1959, P.A. 113; 1961, P.A. 472)

Sec. 53-36. Complaint to civil rights commission. Commission may issue complaint.

In addition to the penalties provided for violation of sections 53-34 and 53-35, any person claiming to be aggrieved by a violation of either section may, by himself or his attorney, make, sign and file with the

civil rights commission a complaint in writing under oath which shall state the circumstances of such violation and the particulars thereof and shall contain such other information as may be required by the commission. In addition, the commission, whenever it has reason to believe that section * * * 53-35 has been or is being violated, * * * may issue a complaint. The commission may thereupon proceed upon such complaint in the same manner and with the same powers as provided in chapter 563 in the case of unfair employment practices, and the provisions of said chapter as to the powers, duties and rights of the commission, the complainant, the court, the attorney general and the respondent shall apply to any proceeding under the provisions of this section. (1959, P.A. 111)

DISTRICT OF COLUMBIA

[D.C. Code Ann. §§47.2901-47.2904, 47.2907, 47.2910 (1961)]

§47-2901. Distinction because of race or color unlawful in licensed places of amusement - Payment of admissions - Penalty.

It shall not be lawful for any person or persons who shall have obtained a license from this Corporation for the purpose of giving a lecture, concert, exhibition, circus performance, theatrical entertainment, or for conducting a place of public amusement of any kind, to make any distinction on account of race or color, as regards the admission of persons to any part of the hall or audience-room where such lecture, concert, exhibition, or other entertainment may be given: Provided, That any person applying shall pay the regular price charged for admission to such part of the house as he or she may wish to occupy, and shall conduct himself or herself in an orderly and peaceable manner, while on the premises; and any person or persons offending herein shall forfeit and pay to this Corporation for each offense a fine of not less than ten nor more than twenty dollars to be collected and applied as are other fines. That all acts or parts of acts inconsistent with this section be, and the same are hereby repealed, (June 10, 1869, ch. 36, p. 22, Corp. Laws of Wash., 66th Council, §§1, 2).

47-2902. Licensed hotels, restaurants and like establishments may not refuse admittance and service to orderly persons or exclude them because of race or color -- Penalty.

(a) It shall not be lawful for the keeper, proprietor, or proprietors of any licensed hotel, tavern, restaurant, ordinary, sample-room, tippling-house, saloon, or eating-house, to refuse to receive, admit, entertain, and supply any quiet and orderly person or persons, or to exclude any person or persons on account of race or color.

(b) If the keeper, proprietor, or proprietors of any licensed hotel, tavern, restaurant, ordinary, sample-room, tippling-house, saloon, or eating-house, or any agent acting for him or them, shall violate or offend against the provisions of sections 47-2902 to 47-2904, he or they shall be subject to a fine of not less than fifty dollars for each violation thereof, to be recovered in an action of debt, in the name of the Mayor, Board of Alderman, and Board of Common Council of the city, on information filed before any police magistrate. (Mar. 7, 1870, ch. 42, p. 22, Corp. Laws of Wash., 67th Council, §§1, 2.)

§47-2903. Increase of penalty provisions in section 47-2901.

In lieu of the penalties provided in section 47-2901 for the offense therein mentioned, the penalty mentioned in section 47-2902 (b) is hereby substituted, and hereafter shall be applicable to and enforced, as herein provided, for any violation of section 47-2901. (Mar. 7, 1870, ch. 42, p. 22, Corp. Laws of Wash., 67th Council, §3).

§47-2904. Recovery of fine - Payment of moiety.

After the final conviction of any party for the violation of any of the provisions of section 47-2901 to 47-2903, and the recovery of the fine, a sum equal in amount to one-half of such fine shall be paid, and warrant drawn in the usual form out of the general fund, to the party who may have been the informer in any such case. That all acts or parts of acts that are inconsistent with the provisions of sections 47-2902 to 47-2904 are hereby repealed. (Mar. 7, 1870, ch. 42, p. 22, Corp. Laws of Wash. 67th Council, §§4, 5).

§47-2907. Keepers or proprietors of restaurants, hotels, barber shops, bathing houses, ice-cream saloons, and soda fountains required to serve well-behaved persons.

Any restaurant keeper or proprietor, any hotel keeper or proprietor, proprietors or keepers of ice-cream saloons or places where soda-water is kept for sale, or keepers of barber shops and bathing houses, refusing to sell or wait upon any respectable well-behaved person, without regard to race, color, or previous condition of servitude, or any restaurant, hotel, ice-cream saloon or soda fountain, barber shop or bathing-house keepers, or proprietors, who refuse under any pretext to serve any well-behaved, respectable person, in the same room, and at the same prices as other well-behaved, respectable persons are served, shall be deemed guilty of a misdemeanor, and upon conviction in a court having jurisdiction, shall be fined one hundred dollars, and shall forfeit his or her license as keeper or owner of a restaurant, hotel, ice-cream saloon, or soda fountain, as the case may be, and it shall not be lawful for the Assessor [Register] or any officer of the District of Columbia to issue a license to any person or persons, or to their agent or agents, who shall have forfeited their license under the provisions of sections 47-2905 to 47-2907, until a period of one year shall have elapsed after such forfeiture. (Leg. Assem., June 20, 1872, §3).

§47-2910. Proprietors or keepers of licensed restaurants, eating-houses, bar-rooms, sample-rooms, ice-cream saloons, or soda fountains required to serve well-behaved persons at common prices.

The proprietor or proprietors, keeper or keepers, of any licensed restaurants, eating-house, bar-rooms, sample-room, ice-cream saloon, or soda-fountain room shall sell at and for the usual or common prices charged by him, her, or the, as contained in said printed cards or papers, any article or thing kept for sale by him, her, or them to any well-behaved and respectable person or persons who may desire the same, or any part or parts thereof, and serve the same to such person or persons in the same room or rooms in which any other well-behaved person or persons may be served or allowed to eat or drink in said place or establishment: Provided, That persons of different sexes shall not be accommodated in the same room or rooms unless they accompany each other, or call for any articles or things together, or unless said room or rooms are ordinarily used indiscriminately by persons of both sexes. (3 Leg. Assem., June 26, 1873, ch. 46, §3)

IDAHO

[Idaho Code Ann. §§18-7201 - 18-7203 (Supp. 1961)]

18-7201. Freedom from discrimination constitutes a civil right.

The right to be free from discrimination because of race, creed, color, or national origin is recognized as and declared to be a civil right. This right shall include, but not be limited to:

- (1) The right to obtain and hold employment without discrimination.
- (2) The right to the full enjoyment of any of the accommodations, facilities, or privileges of any place of public resort, accommodation, assemblage or amusement. [1961, ch. 309, §1, p. 573.]

18-7202. Definitions.

Terms used in this chapter shall have the following definitions:

(a) "Every person" shall be construed to include any owner, lessee, proprietor, manager, agent or employee whether one or more natural persons, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees, receivers, of this state and its political subdivisions, boards and commissions, engaged in or exercising control over the operation of any place of public resort, accommodation, assemblage or amusement.

(b) "Deny" is hereby defined to include any act which directly or indirectly, or by subterfuge, by a person or his agent or employee, results or is intended or calculated to result in whole or in part in any discrimination, distinction, restriction, or unequal treatment or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort accommodation, assemblage, or amusement except for conditions and limitations established by law and applicable alike to all persons, regardless of race, creed or color.

(c) "Full enjoyment of" shall be construed to include the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities or

privileges of any place of public resort, accommodation, assemblage or amusement, without acts directly or indirectly causing persons of any particular race, creed or color, to be treated as not welcome, accepted, desired or solicited.

(d) "National origin" includes "ancestry."

(e) "Any place of public resort, accommodation, assemblage or amusement" is hereby defined to include, but not to be limited to any public place, licensed or unlicensed, kept for gain, hire or reward, or where charges are made for admission, service, occupancy or use of any property or facilities, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation, or rest, or for the sale of goods and merchandise, or for the rendering of personal services, or for public conveyance or transportation on land, water or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation or public purposes, or public halls, public elevators and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or any educational institution wholly or partially supported by public funds or schools of special instruction, or nursery schools, or day care centers or children's camps; nothing herein contained shall be construed to include, or apply to, any institute, bona fide club, or place of accommodation which is by its nature distinctly private provided that where public use is permitted that use shall be covered by this section; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution; and the right of a natural parent in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed. [1961, ch. 309, §2, p. 573.]

18-7203. Denial of right to work or accommodations a misdemeanor.

Every person who denies to any other person because of race, creed, color, or national origin the right to work: (a) by refusing to hire,

(b), by discharging, (c) by barring from employment, or (d) by discriminating against such person in compensation or in other terms or conditions of employment; and every person who denies to any other person because of race, creed, color or national origin, the full enjoyment of any of the accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage, or amusement, shall be guilty of a misdemeanor. [1961, ch. 309, §3, p. 573.]

ILLINOIS

[Illinois Laws, 1961; Criminal Code, Art. 13]

Article 13. Violation of Civil Rights

§13.1. Definitions.

(a) Public Place of Accommodation or Amusement.

A public place of accommodation or amusement includes inns, restaurants, eating houses, hotels, soda fountains, soft drink parlors, taverns, roadhouses, barber shops, department stores, clothing stores, hat stores, shoe stores, bathrooms, restrooms, theatres, skating rinks, public golf courses, public golf driving ranges, concerts, cafes, bicycle rinks, elevators, ice cream parlors or rooms, railroads, omnibusses, busses, stages, airplanes, street cars, boats, funeral hearses, crematories, cemeteries, and public conveyances on land, water, or air, and all other places of public accommodation and amusement.

(b) Operator of a Public Place of Accommodation or Amusement.

An operator of a public place of accommodation or amusement is any owner, lessee, proprietor, manager, superintendent, agent, or occupant of the public place of accommodation or amusement, or an employee of any such person or persons.

(c) Official.

An official is any officer or employee of the State of Illinois or any agency thereof, including State political divisions, municipal corporations, park districts, forest preserve districts, educational institutions and schools.

§13-2. Elements of the Offense.

A person commits a violation of civil rights when:

(a) He denies to another the full and equal enjoyment of the facilities and services of any public place of accommodation or amusement because of race, religion, color or national ancestry; or

(b) He, as the operator of a public place of accommodation or amusement, directly or indirectly, publishes, circulates, displays or mails any written communication, except a private communication sent in response to a specific inquiry, which he knows is to the effect that any of the facilities of the public place of accommodation or amusement will be denied to any person because of race, religion, color, or national ancestry or that the patronage of a person is unwelcome, objectionable, or unacceptable for any of those reasons; or

(c) He, as an official, refuses to employ, or discriminates in the employment of another for any work relief project because of race, religion, color or national ancestry; or

(d) He, as an official, denies or refuses to any person the full and equal enjoyment of the accommodations, advantages, facilities or privileges of his office or services or of any property under his care because of race, religion, color, or national ancestry.

§13-3. Sanctions.

(a) Criminal Penalty.

A person convicted of a violation of civil rights may be fined not to exceed \$500, or may be imprisoned not more than 6 months, or both.

(b) Suit for Damages.

Any operator of a public place of accommodation or amusement who commits a violation of civil rights shall be liable to the person aggrieved thereby for not less than \$25 nor more than \$500, to be recovered in an action at law in any court of competent jurisdiction.

(1) Justices of the peace in the county where the offense is committed shall have jurisdiction in all civil actions brought under this Article to recover damages, to the extent of the jurisdiction of justices of the peace to recover a money demand in other actions as fixed by law, and either party shall have the right to have the cause tried by jury and to appeal from the judgment of the justice in the same manner as in other civil suits.

(2) When such action shall be brought originally before a justice of the peace and an appeal taken from the judgment of the justice to the circuit, superior or county court, such court to which the

appeal is taken shall upon the trial de novo of such appeal have jurisdiction to render a judgment for a sum exceeding the jurisdiction of the justice in the same manner as though each suit such had originally been begun in such circuit superior or county court: Provided, that the plaintiff shall, within 30 days after the transcript is filed in the court to which the appeal is taken, file his complaint in such cause in the same manner as in original suits, and thereupon process shall issue against the defendant and the cause shall proceed in all respects the same as in original actions brought in such court. Where a complaint is filed the appeal shall not be dismissed without the consent of the plaintiff.

(c) Enjoining as Public Nuisance.

Any public place of accommodation or amusement in which a violation of civil rights occurs is a public nuisance which may be abated in the manner provided by law for the abatement of public nuisances. The operator of any such public place of accommodation or amusement shall be deemed guilty of maintaining a public nuisance and may be enjoined as hereinafter provided.

(1) Proceedings to Enjoin.

Any action to enjoin any nuisance defined in this Article may be brought in the name of the People of the State of Illinois by The Attorney-General of the State or any State's Attorney of the county where a nuisance as herein defined exists. Such action shall be brought and tried as an action in equity by the court without a jury. A verified petition shall be filed setting up the essential facts showing that a nuisance as herein defined exists. If it is made to appear by affidavits or otherwise, to the satisfaction of the court of judge in vacation that such nuisance exists, a temporary writ of injunction shall forthwith issue restraining the defendant from conducting or permitting the continuance of such nuisance until the conclusion of the trial: Provided, that no injunction shall issue unless a written notice of the application for the same is served upon the defendant or his agent or some person in charge of the alleged nuisance at least 2 days before such application is made. No bond shall be required in instituting such proceeding. The defendant shall be held to answer the allegations of the petition as in other chancery proceedings. Upon the trial of the cause, on finding that the material allegations of the petition are true, the court shall order such nuisance to be abated, and enjoin all persons from maintaining or permitting such nuisance. When any injunction as herein provided has been granted it shall be binding upon the defendant and shall act as an injunction in personam against the defendant throughout the State.

(2) Violation of Injunction.

In case of the violation of any injunction or order of abatement issued under the provisions of this Article, the court in term time, or a judge in vacation, may summarily try and punish the offender for contempt of court. The hearing may be upon affidavits, or either party may demand the production and oral examination of witnesses.

(d) Discharge of Officials.

Any violation of civil rights by an official may be reported, in writing, to the head of the department or agency in which the official committing said violation is employed. It shall be his duty to investigate the complaint thoroughly. If he determines that a violation has been committed, he shall immediately discharge the guilty official if said official is not employed under Civil Service Law. If said official is employed under Civil Service Law, then the head of the department or agency in which such offending official is employed shall file or cause to be filed with the proper person the proper and necessary papers, charging such official with a violation of civil rights. Said papers filed shall be in conformity with the provisions of the Civil Service Act, under which such official is employed. If the head of the department or agency determines no violation has been committed, he shall so notify the complainant by registered mail.

(1) Petition to Circuit Court.

Where no violation is found by the head of the proper department or agency, the aggrieved party may file a petition in the circuit court of the county wherein the official complained of is employed. Such official and the department agency head shall be named as respondents. The summons, service and return shall be in accordance with the Civil Practice Act. Upon the return day or any day thereafter fixed by the court, the court shall hear and determine the complaint in summary manner, and if the court finds the issues for the complainant it shall order the head of the department or agency to discharge the offending official forthwith; or if such offending official is employed under Civil Service Law, the court shall order the head of the department or agency in which such employee is employed to file or cause to be filed with the proper person the proper and necessary papers, in conformity with the Civil Service Law under which such official is employed, charging such official with a violation of this Act. The head of the department or agency shall be bound by the court's decision and may be held in contempt for failure to obey the same.

(2) Violation of Court's Order.

Whenever any appointed head of a department or agency violates the provisions of this Section refuses to abide by the court's decision, he shall be removed from office by the officer who appointed him.

§13-4. Enforcement.

(a) Responsibility for Enforcement.

It shall be the duty of all State, county, and municipal officials to cooperate in the enforcement of this Article. If any sheriff, deputy sheriff, chief of police, marshal, policeman, constable, or other peace officer shall have knowledge of information of any violation of any provision of this Article, he shall diligently investigate and secure evidence of the same and shall, before the proper officer, make and sign a complaint against the offending person, anything in the ordinance or by-laws of any municipality to the contrary notwithstanding.

(b) Duty of State's Attorney and Attorney General.

It shall be the duty of the State's Attorney of every county diligently to prosecute any and all persons violating any of the provisions of this Article in his county. He shall be responsible for the proper enforcement of this Article, and whenever he shall have any information or knowledge, or have any reason to believe that any of the provisions of this Article are being violated in his county, he shall use every legitimate means at his command to secure the necessary and proper evidence of such violation, and immediately upon securing evidence he shall file or cause to be filed a complaint, or petition for abatement of nuisance, or both as may be applicable, against any person against whom he shall have any evidence of any such violation, and he shall have said person arrested and shall vigorously prosecute said complaints or petitions on said charges to a speedy disposition.

(1) Disclosure in Criminal Proceeding.

In case the existence of any place where any violations of the provisions of this Article is disclosed in any criminal proceeding, it shall be the duty of the State's Attorney to proceed promptly to enforce the provisions of this Article against such place and its operator.

(2) Investigation of Complaints by Attorney General.

The Attorney General shall seek through his assistants, agents or investigators to obtain evidence of violations of this Article when information in that regard is brought to his notice, and shall make, or cause to be made, complaints against violators whenever such evidence is secured; and he and his assistants are hereby given authority to sign, verify and file any such complaints, petitions and papers required under this Article. But nothing herein shall in any way relieve State, county, municipal or other officers from the responsibility of enforcing the laws relating to civil rights.

(c) Failure of State's Attorney and Attorney General to Enforce.

Whenever a violation of this Article is by affidavit called to the attention of the Attorney General of this State or to the State's Attorney of the county in which the nuisance is alleged to exist; it shall be their duty to proceed to abate the nuisance as provided by this Article. Upon the failure of the Attorney General and State's Attorney to act upon such affidavit within a reasonable time, the circuit court of the county wherein the nuisance is alleged to exist, or the judge thereof in vacation shall upon the sworn petition in writing of the aggrieved person, herein defined, showing facts constituting the nuisance appoint a special assistant Attorney General or special assistant State's Attorney to prosecute said cause. The expenses of such proceedings shall be paid by the county in which the nuisance is alleged to exist.

INDIANA

[Ind. Ann. Stat. §§10-901-10-902 (Supp. 1961)]

10-901 [1633]. Persons entitled to equal accommodations -- Definition of public accommodation.—All persons within the jurisdiction of this state shall be entitled to the full and equal accommodations in every place of public accommodation, resort or amusement, subject only to the conditions and limitations established by law and applicable alike to all persons; and any denial of such accommodation by reason of race, creed or color of the applicant therefor shall be a violation of the provisions of this section. Any discrimination, segregation or separation, on account of race, creed or color, shall be a violation of this section. A place of public accommodation resort or amusement within the meaning of this section means any establishment, which caters or offers its services or facilities or goods to the general public including but not limited to, public housing projects. For the purpose of this act, public housing projects shall mean those housing projects owned by the state government or any agency or political subdivision of any of them. Any person who violates any provision of this section shall be fined not less than twenty-five [\$25.00] nor more than one hundred dollars [\$100] or imprisoned not more than thirty [30] days or both. [Acts 1885, ch. 47, § 1, p. 76; 1961, ch. 256, § 1, p. 585.]

10-902 [1634]. Persons entitled to equal accommodations -- Action, forfeiture and penalty for violation.— Any person who believes that he has been denied equal accommodations as provided in section 1 [§ 10-901] hereof, may bring a civil action in any court of competent jurisdiction in the county where said offense is alleged to have been committed. If such court enters judgment against defendant therein, it shall award damages to the plaintiff in an amount not less than twenty-five dollars [\$25] nor more than one hundred dollars [\$100], and shall tax court costs against the defendant. It is expressly provided, however, that should the plaintiff be awarded judgment against the defendant in such civil action, such judgment shall be a bar to any criminal proceeding based upon such denial by this defendant of equal accommodations to this plaintiff. A judgment against the defendant in a criminal proceeding, as provided in section 1 [§ 10-901] hereof, shall be a bar to any civil action for this same denial by defendant of equal accommodations to this plaintiff. [Acts 1885, ch. 47, § 2, p. 76; 1961, ch. 256, § 2, p. 585.]

IOWA

[Iowa Code §§735.1-735.2 (1950)]

735.1 Civil rights defined

All persons within this state shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, restaurants, chophouses, eating houses, lunch counters, and all other places where refreshments are served, public conveyances, barber shops, bathhouses, theaters, and all other places of amusement.

735.2 Punishment

Any person who shall violate the provisions of section 735.1 by denying to any person, except for reasons by law applicable to all persons, the full enjoyment of any of the accommodations, advantages, facilities, or privileges enumerated therein, or by aiding or inciting such denial, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred dollars or imprisonment in the county jail not to exceed thirty days.

KANSAS

[Kan. Gen. Stat. Ann. §21-2424 (Supp. 1961)]

21-2424. Denying civil rights on account of race, color, religion, national origin or ancestry; penalty. If any of the regents or trustees of any state university, college, or other school of public instruction, or the state superintendent, or the owner or owners, agents, trustees or managers in charge of any hotel, as defined in section 36-101 of the General Statutes Supplement of 1957, or acts amendatory thereof, or any restaurant, as defined in section 36-301 of the General Statutes Supplement of 1957, or acts amendatory thereof, or any place of public entertainment or public amusement, for which a license is required by any of the municipal authorities of this state; or the owner or owners or person or persons in charge of any railroad, bus, streetcar, or any other means of public carriage of persons within the state, shall make any distinction on account of race, color, religion, national origin or ancestry, the person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be fined in any sum not more than one thousand dollars (\$1,000). (O. S. 1949, §21-2424; L. 1959, ch. 164, §1; June 30.)

MAINE

(Me. Rev. Stat. Ann. ch. 137, §50 (Supp. 1959))

Sec. 50. Discrimination by reason of race, color, religious creed, ancestry or national origin at places of public accommodation.—No person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement shall directly or indirectly by himself or another, refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, or directly or indirectly by himself or another, publish, issue, circulate, distribute or display in any way, any advertisement, circular, folder, letter, book, pamphlet, written or printed or printed notice or sign, of any kind or description, intended to discriminate against or actually discriminating against persons of any race, color, religious sect, creed, class, denomination, ancestry or national origin, in the full enjoyment of the accommodations, advantages, facilities or privileges offered to the general public by such places of public accommodation, resort or amusement. The production of any such advertisement, circular, folder, letter, book, pamphlet, written or printed or printed notice or sign, purporting to relate to any such place and to be made by any person being the owner, or operator or an agent or employee of said owner or operator shall be presumptive evidence in any action that the same was authorized by such person.

A place of public accommodation, resort or amusement within the meaning of this section shall be deemed to include any establishment which caters or offers its services, facilities or goods to, or solicits patronage from the members of the general public, including but not limited to any inn, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest, any restaurant, eating house, public conveyance on land or water, bathhouse, barber shop, theater, music hall and any retail store.

Any person who shall violate any of this section or who shall aid in or incite, cause or bring about, in whole or in part, the violation of this section shall, for the first such offense, be punished by a fine of not more than \$100, or by imprisonment for not more than 30 days, or by both; and for each and every additional violation be punished by a fine of \$500, or imprisonment for not more than 30 days, or by both. (R. S. c. 124, § 44. 1959, c. 282.)

MARYLAND

[Maryland Laws 1963, ch. 227]

An Act to add a new Section 11 to Article 49B of the Annotated Code of Maryland (1957 Edition), title "Interracial Commission," to follow immediately after Section 10 thereof, and to be under the new subtitle "Discrimination in Public Accommodations," making unlawful certain forms of discrimination in places of public accommodations, defining such places, and relating generally to possible discrimination in the accommodations, advantages, facilities and privileges of such places; and providing that nothing in this act shall apply to or within the limits of certain political subdivisions of this state and providing that the application of this act to or within Carroll County is subject to a referendum of the voters therein; and providing that the provisions of this act shall be severable.

Section 1. Be it enacted by the General Assembly of Maryland,
That a new Section 11 be and it is hereby added to Article 49B of the Annotated Code of Maryland (1957 Edition), title "Interracial Commission," to follow immediately after Section 10 thereof, and to be under the new subtitle "Discrimination in Public Accommodations," and to read as follows:

Discrimination in Public Accommodations

It is unlawful for an owner or operator of a place of public accommodation or an agent or employee of said owner or operator, because of the race, creed, color, or national origin of any person, to refuse, withhold from, or deny to such person any of the accommodations, advantages, facilities and privileges of such place of public accommodation. For the purpose of this subtitle, a place of public accommodation means any hotel, restaurant, inn, motel or an establishment commonly known or recognized as regularly engaged in the business of providing sleeping accommodations, or serving food, or both, for a consideration, and which is open to the general public; except that premises or portions of premises primarily devoted to the sale of alcoholic beverages and generally described as bars, taverns, or cocktail lounges are not places of public accommodation for the purposes of this subtitle. Nothing in this section shall apply to or within the limits of Calvert, Caroline, Dorchester, Garrett, Kent, Queen Anne's, St. Mary's Somerset, Talbot, Wicomico, and Worcester counties. The application of this section to and within Carroll county is subject to the result of a referendum election in that county, for which further provision is made herein.

Sec. 2. And be it further enacted, that nothing in this act shall apply to or within the limits of Carroll county unless it has been approved on referendum by the voters of Carroll county. At a time to be fixed by the Board of County Commissioners of Carroll County (in no event later than the time of the regular congressional election in the month of November 1964), the board of county commissioners and the board of supervisors of elections in Carroll county shall place this question before the voters of the county. The board of county commissioners and the board of supervisors of elections shall do such things as are necessary and proper to place this question on the ballots or on the ballot labels of the voting machines and the board of county commissioners shall defray any expense resulting from the submission of this question to the voters of Carroll county. The ballots or the voting machine ballot labels shall contain the question "for public accommodation law" and "against public accommodation law" with suitable provision made for each voter to express his preference for or against his question. If a majority of those voting on the question at the referendum election vote "for public accommodation law," this act becomes effective in Carroll county at the time of the official canvass of votes. If a majority of the persons voting on this question vote "against public accommodation law," this act has no application or effect within the limits of Carroll county.

Sec. 3. And be it further enacted, that if any word, clause, section or provision of this act is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed to render invalid or unconstitutional any other word, clause, section or provision thereof; and for this purpose the provisions of this act are declared to be severable.

Sec. 4. And be it further enacted, that (except in Carroll county where it is subject to the provisions of section 2 hereof) this Act shall take effect June 1, 1963.

MASSACHUSETTS

[Mass. Gen. Laws ch. 272 §§92A, 98 (1959)]

§92A. Advertisement, book, notice or sign relative to discrimination; definition of place of public accommodation, resort or amusement. No owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement shall, directly or indirectly, by himself or another, publish, issue, circulate, distribute or display, or cause to be published, issued, circulated, distributed or displayed, in any way, any advertisement, circular, folder, book, pamphlet, written, or painted or printed notice or sign, of any kind or description, intended to discriminate against or actually discriminating against persons of any religious sect, creed, class, race, color, denomination or nationality, in the full enjoyment of the accommodations, advantages, facilities or privileges offered to the general public by such places of public accommodation, resort or amusement; provided, that nothing herein contained shall be construed to prohibit the mailing to any person of a private communication in writing, in response to his specific written inquiry.

A place of public accommodation, resort or amusement within the meaning hereof shall be defined as and shall be deemed to include any place, whether licensed or unlicensed, which is open to and accepts or solicits the patronage of the general public and, without limiting the generality of this definition, whether or not it be (1) an inn, tavern, hotel shelter, roadhouse, motel, trailer camp or resort for transient or permanent guests or patrons seeking housing or lodging, food, drink, entertainment, health, recreation or rest; (2) a carrier, conveyance or elevator for the transportation of persons, whether operated on land, water or in the air, and the stations, terminals and facilities appurtenant thereto; (3) a gas station, garage, retail store or establishment, including those dispensing personal services; (4) a restaurant, bar or eating place, where food, beverages, confections or their derivatives are sold for consumption on or off the premises; (5) a rest room, barber shop, beauty parlor, bathhouse, seashore facilities or swimming pool; (6) a boardwalk or other public highway; (7) an auditorium, theatre, music hall, meeting place or hall, including the common halls of buildings; (8) a place of public amusement, recreation, sport, exercise or entertainment; (9) a public library, museum or planetarium; or (10) a hospital, dispensary or clinic operating for profit; provided, however, that no place shall be deemed to be a place of public accommodation, resort or amusement which is owned or operated by a club or institution whose products or facilities or services are available

only to its members and their guests nor by any religious, racial or denominational institution or organization, nor by any organization operated for charitable or educational purposes.

Any person who shall violate any provision of this section, or who shall aid in or incite, cause or bring about, in whole or in part, such a violation shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days, or both.

§98. Discrimination in admission to, or treatment in, place of public accommodation; punishment; forfeiture; civil right. Whoever makes any distinction, discrimination or restriction on account of religion, color or race, except for good cause applicable alike to all persons of every religion, color and race, relative to the admission of any person to, or his treatment in, any place of public accommodation, resort or amusement, as defined in section ninety-two A of chapter two hundred and seventy-two, or whoever aids or incites such distinction, discrimination or restriction, shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than one year, or both, and shall forfeit to any person aggrieved thereby not less than one hundred nor more than five hundred dollars; but such person so aggrieved shall not recover against more than one person by reason of any one act of distinction, discrimination or restriction. All persons shall have the right to the full and equal accommodations, advantages, facilities and privileges of any place of public accommodation, resort or amusement, subject only to the conditions and limitations established by law and applicable alike to all persons. This right is recognized and declared to be a civil right. As amended St.1934, c. 138; St.1950, c.479, §3.

MICHIGAN

[Mich. Stat. Ann. §§28.3+3-28.3+4 (Supp. 1959)]

§28.3+3 Equal accommodations, etc., at restaurants, etc.

Sec. 146. All persons within the jurisdiction of this state shall be entitled to full and equal accommodations, advantages, facilities and privileges of inns, hotels, motels, government housing, restaurants, eating houses, barber shops, billiard parlors, stores, public conveyances on land and water, theatres, motion picture houses, public educational institutions, in elevators, on escalators, in all methods of air transportation and all other places of public accommodation, amusement, and recreation, subject only to the conditions and limitations established by law and applicable alike to all citizens and to all citizens alike with uniform prices.

§28.3+4 Penalty; treble damages; revocation of license.

Sec. 147. Any person being an owner, lessee, proprietor, manager, superintendent, agent or employee of any such place who shall directly or indirectly refuse, withhold from or deny to any person any of the accommodations, advantages, facilities and privileges thereof or directly or indirectly publish, circulate, issue, display, post or mail any written or printed communications, notice or advertisement to the effect that any of the accommodations, advantages, facilities, and privileges of any such places shall be refused, withheld from or denied to any person on account of race, creed or color or that any particular race, creed or color is not welcome, is objectionable or not acceptable, not desired or solicited, shall for every such offense be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$100.00 or imprisoned for not less than 15 days or both such fine and imprisonment in the discretion of the court; and every person being an owner, lessee, proprietor, manager, superintendent, agent or employee of any such place, and who violates any of the provisions of this section, shall be liable to the injured party, in treble damages sustained, to be recovered in a civil action: Provided, however, That any right of action under this section shall be unassignable. In the event that any person violating this section is operating by virtue of a license issued by the state, or any municipal authority, the court, in addition to the penalty prescribed above, may suspend or revoke such license.

MINNESOTA

[Minn. Stat. Ann. Sec. 327.09 (1947)]327.09 Equal rights in hotels

No person shall be excluded, on account of race, color, national origin, or religion from full and equal enjoyment of any accommodation, advantage, or privilege furnished by public conveyances, theaters, or other public places of amusement, or by hotels, barber shops, saloons, restaurants, or other places of refreshments, entertainment, or accommodations. Every person who violates any provision of this section, or aids or incites another to do so, shall be guilty of a gross misdemeanor, and, in addition to the penalty therefor, shall be liable in a civil action to the person aggrieved for damages not exceeding \$500.

MONTANA

[Mont. Rev. Code Ann. Sec. 64-211 (1962)]

64-211. Discrimination on grounds of race, color, or creed
in places of public accommodation or amusement prohibited.

No person, partnership, corporation, association or organization owning or managing any place of public accommodation or amusement shall discriminate against any person or group of persons solely on the ground of race, color or creed.

NEBRASKA

[Neb. Rev. Stat. §§20-101-20-102 (1943)]

20-101. Civil rights of persons, enumerated. All persons within this state shall be entitled to a full and equal enjoyment of the accommodations, advantages, facilities and privileges of inns, restaurants, public conveyances, barber shops, theatres and other places of amusement, subject only to the conditions and limitations established by law and applicable alike to every person.

20-102. Violations; penalty. Any person who shall violate the provisions of section 20-101 by denying to any person, except for reasons by law applicable to all persons, the full enjoyment of any of the accommodations, advantages, facilities or privileges enumerated in said section, or by aiding or inciting such denials, shall for each offense be deemed guilty of a misdemeanor, and be fined in any sum not less than twenty-five dollars nor more than one hundred dollars, and pay the costs of the prosecution.

NEW HAMPSHIRE

[N.H. Laws 1961 ch. 219; N.H. Rev. Stat. ch. 354, §1-4]

354:1 Discrimination. No person shall directly or indirectly discriminate against persons of any race, creed, color, ancestry or national origin, as such, in the matter of board, lodging or accommodations, privilege or convenience offered to the general public at places of public accommodation or in the matter of rental or occupancy of a dwelling in a building containing more than one dwelling.

354:2 Definition. A place of public accommodation, within the meaning hereof, shall include any inn, tavern or hotel, whether conducted for entertainment, the housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation, or rest, any restaurant, eating house, public conveyance on land or water, bathhouse, barber shop, theater, and music or other public hall.

354:3. Persons in Uniform. No proprietor, manager, or employee of a theatre or other public place of entertainment or amusement shall make, or cause to be made, any discrimination against any person lawfully wearing a uniform of the army, navy, revenue cutter service or marine corps of the United States, or of the militia of this state, because of that uniform.

354:4 Penalty. Whoever violates any provisions of sections 1 or 3 shall be fined not less than ten nor more than one hundred dollars.

NEW JERSEY

[N. J. Rev. Stat. §§10:1 - 2 -- 10:1 - 6 (1960, Supp. 1962)]

10:1-2. Equal rights and privileges of all persons in public places.

All persons within the jurisdiction of this state shall be entitled to the full and equal accommodations, advantages, facilities and privileges of any places of public accommodation, resort or amusement, subject only to the conditions and limitations established by law and applicable alike to all persons.

10:1-3. Exclusion because of race, creed, color, national origin, or ancestry unlawful

No owner, lessee, proprietor, manager, superintendent, agent or employee of any such place shall directly or indirectly refuse, withhold from, or deny to, any person any of the accommodations, advantages, facilities or privileges thereof, or directly or indirectly publish, circulate, issue, display, post, or mail any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from, or denied to, any person on account of race, creed, color, national origin, or ancestry, or that the patronage or custom thereof of any person belonging to or purporting to be of any particular race, creed, color, national origin, or ancestry, is unwelcome, objectionable or not acceptable, desired or solicited. As amended L. 1945, c. 168, p. 587, §1.

10:1-4. Written announcement of discrimination; presumption.

The production of any such written or printed communication, notice or advertisement, purporting to relate to any such place and to be made by any owner, lessee, proprietor, superintendent or manager thereof, shall be presumptive evidence in any civil or criminal action that the same was authorized by such person.

10:1-5. Place of public accommodation, resort or amusement defined.

A place of public accommodation, resort or amusement within the meaning of this chapter shall be deemed to include any inn, tavern, road house or hotel, whether for entertainment of transient guests or accommodation of those seeking health, recreation or rest; any restaurant, eating house, or place where food is sold for consumption on the premises; any place maintained for sale of ice cream, ice and fruit preparations or their derivatives, soda water or confections, or where any beverages of any kind are retailed for consumption on the premises; any garage, any public conveyance operated on land or water, and stations and terminals thereof; any public bathhouse, public boardwalk, public seashore accommodation; any theater, or other place of public amusement, motion-picture house, airdrome, music hall, roof garden, skating rink, amusement and recreation park, fair, bowling alley, gymnasium, shooting gallery, billiard and pool parlor; any dispensary, clinic, hospital, public library, kindergarten, primary and secondary school, high school, academy, college and university, or any educational institution under the supervision of the regents of the state of New Jersey. Nothing contained in sections 10:1-2 to 10:1-7 of this title shall be construed to include, or to apply to, any institution, club, or place of accommodation which is in its nature distinctly private, or to prohibit the mailing of a private communication in writing sent in response to a specific writer inquiry.

10:1-6. Penalty and punishment.

Any person who shall violate any of the provisions of sections 10:1-2 to 10:1-5 of this Title by denying to any citizen, except for reasons applicable alike to all citizens of every race, creed, color national origin or ancestry and regardless of race, creed, color, national origin or ancestry, the full enjoyment of any of the accommodations, advantages, facilities or privileges in said sections enumerated, or by aiding or inciting such denial, or who shall aid or incite the violation of any of the said provisions shall, for each and every violation thereof, forfeit and pay the sum of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), to the State, to be recovered in a civil action, with costs, and shall also, for every such violation, be deemed guilty of a misdemeanor, and upon

conviction thereof, shall be subject to a fine of not more than five hundred dollars (\$500.00), or imprisonment of not more than ninety days, or both. As amended L. 1945, c. 168, p. 587, §2; L. 1953, c. 10, p. 91, §1.

NEW MEXICO

[N.M. Stat. Ann. §§49.8.1-49.8.6 (Supp. 1959).
Laws, 1963 c. 202]

49.8.1. Declaration of policy. -- It is hereby declared to be the policy of the state of New Mexico in the exercise of its power for the protection of the public welfare, to prohibit discrimination in places of accommodation, resort or amusement due to race, color, religion, ancestry or national origin.

49.8.2. Declaration of civil right. -- All persons shall have the right to the full and equal accommodations, advantages, facilities and privileges of any place of public accommodation, resort, or amusement within the state of New Mexico subject only to the conditions and limitations established by law and applicable alike to all persons. This right is recognized and declared to be a civil right.

49.8.3. Equal right in places of public accommodation, resort or amusement. -- No person being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement within the state of New Mexico shall directly or indirectly refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privilege thereof, and no person shall directly or indirectly publish, circulate, issue, display, post or mail or cause to be published, circulated, issued, displayed, posted or mailed within the state of New Mexico written, painted or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of a place of public accommodation, resort or amusement shall be refused, withheld from or denied to any person on account of race, color, religion, ancestry or national origin, or that the patronage or custom thereof of any person belonging to or purporting to be of any particular race, color, religion, ancestry or national origin is unwelcome, objectionable or not acceptable, desired or solicited. The production of any such written, painted, or printed communication, notice or advertisement, purporting to relate to any such place and to be made by any person being the owner, lessee, proprietor, superintendent, manager, agent or employee thereof, shall be presumptive evidence in any proceedings that the same was authorized and published by such person.

49.8.4. Exclusion, segregation, and discrimination, prohibited in places of accommodation, resort or amusement. --Any exclusion or segregation or of discrimination against any person on account of race, color, religion, ancestry or national origin in places of public accommodation, resort or amusement within the state of New Mexico shall be unlawful.

49.8.5. "Places of public accommodation," "resort" or "amusement" defined. --A place of public accommodation, resort or amusement within the meaning of this act [49-8-1 to 49-8-6] shall be deemed to include inns, taverns, roadhouses, hotels, motels and tourist courts, whether conducted for the entertainment of transient guests or for the accommodation of those seeking health, recreation or rest, restaurants, eating houses and any place where food is sold for consumption on the premises, buffets, saloons, barrooms and any store, park or enclosure where spirituous or malt liquors are sold; ice cream parlors, confectioneries, soda fountains, and all stores where ice, ice cream, ice and fruit preparations or their derivations, or where beverages of any kind are retailed for consumption on the premises; dispensaries, clinics, hospitals, bathhouses, theatres, motion picture houses, music halls, concert halls, circuses, race courses, skating rinks, amusement and recreation parks, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiard and pool parlors, swimming pools, public libraries, garages, all public conveyances operated on land, water or in the air as well as the stations and terminals thereof; public halls and public elevators of buildings and structures occupied by two [2] or more tenants, or by the owner and one [1] or more tenants. Nothing herein contained shall be construed to include any institution, club or place of accommodation which is in its nature distinctly private, or to conflict with existing federal statutes relative to the sale of intoxicating liquors to Indians.

49.8.6. Extent of personal responsibility. -- The provisions and requirements of this act [49-8-1 to 49-8-6] shall bind and obligate every owner, lessee, operator, proprietor, manager, agent and employee, whether natural person, corporation or unincorporated association, engaged in or exercising control over the operation of any place of public accommodation, resort or amusement; Provided, that whenever any agent or employee shall to exercise any function or employ any power with which he is charged or entrusted as to violate any provisions of this act, both he and his principal or employer shall be held equally responsible.

49-8-7. Any person, agency, bureau, corporation or association which willfully violates any of the provisions relating to civil rights, or aids or causes the violation of any of the provisions shall be guilty of a misdemeanor and fines not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each violation. (This section added by c. 202, Laws 1963, Approved, March 19, 1963).

NEW YORK

[N. Y. Civ. Rights Law §40, 40b, 41 (1948, Supp. 1962)]

§40. Equal rights in places of public accommodation, resort or amusement.

All persons within the jurisdiction of this state shall be entitled to the full and equal accommodations, advantages, facilities and privileges of any places of public accommodations, resort or amusement, subject only to the conditions and limitations established by law and applicable alike to all persons. No person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any such place shall directly or indirectly refuse, withhold from or deny to any person any of the accommodations, advantages, facilities, or privileges thereof, or directly or indirectly publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account or race, creed, color or national origin, or that the patronage or custom thereof, of any person belonging to or purporting to be of any particular race, creed, color or national origin is unwelcome, objectionable or not acceptable, desired or solicited. The production of any such written or printed communication, notice or advertisement purporting to relate to any such place and to be made by any person being the owner, lessee, proprietor, superintendent or manager thereof, shall be presumptive evidence in any civil or criminal action that the same was authorized by such person. A place of public accommodation, resort or amusement within the meaning of this article, shall be deemed to include inns, taverns, road houses, hotels, whether conducted for the entertainment of transient guests or for the accommodation of those seeking health, recreation or rest, or restaurants, or eating houses, or any place where food is sold for consumption on the premises; buffets, saloons, barrooms, or any store, park or enclosure where spirituous or malt liquor are sold; ice cream parlors, confectioneries, soda fountains, and all stores where ice cream, ice and fruit preparations or their derivatives, or where beverages of any kind are retailed for consumption on the premises; retail stores and establishments, dispensaries, clinics, hospitals, bath-houses, barber-shops, beauty parlors, theatres, motion picture houses, airdromes, roof gardens, music halls, race courses, skating rinks amusement and recreation parks, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiard and pool parlors,

public libraries, kindergartens, primary and secondary schools, high schools, academies, colleges and universities, extension courses, and all educational institutions under the supervision of the regents of the state of New York; and any such public library, kindergarten, primary and secondary school, academy, college, university, professional school, extension course, or other educational facility, supported in whole or in part by public funds or by contributions solicited from the general public; garages, all public conveyances operated on land or water, as well as the stations and terminals thereof; public halls and public elevators of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants. With regard to institutions for the care of neglected and/or delinquent children supported directly or indirectly, in whole or in part, by public funds, no accommodations, advantages, facilities and privileges of such institutions shall be refused, withheld from or denied to any person on account of race or color. Nothing herein contained shall be construed to modify or supersede any of the provisions of the children's court act, the social welfare law or the domestic relations court act of New York city in regard to religion of custodial persons or agencies or to include any institution, club or place of accommodation which is in its nature distinctly private, or to prohibit the mailing of a private communication in writing sent in response to a specific written inquiry.

No institution, club, organization or place of accommodation which sponsors or conducts any amateur athletic contest or sparring exhibition and advertises or bills such contest or exhibition as a New York state championship contest or uses the words "New York state" in its announcements shall be deemed a private exhibition within the meaning of this section.

§40-b. Wrongful refusal of admission to and ejection from places of public entertainment and amusement.

No person, agency, bureau, corporation or association, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public entertainment and amusement as herein-after defined shall refuse to admit to any public performance held at such place any person over the age of twenty-one years who presents a ticket of admission to the performance a reasonable time before the commencement thereof, or shall eject or demand the departure of any

such person from such place during the course of the performance, whether or not accompanied by an offer to refund the purchase price or value of the ticket of admission presented by such person; but nothing in this section contained shall be construed to prevent the refusal of admission to or the ejection of any person whose conduct or speech thereat or therein is abusive or offensive or of any person engaged in any activity which may tend to a breach of the peace.

The places of public entertainment and amusements within the meaning of this section shall be legitimate theatres, burlesque theatres, music halls, opera houses, concert halls and circuses.

§41. Penalty for violation.

Any person who or any agency, bureau, corporation or association which shall violate any of the provisions of sections forty, forty-a, forty-b or forty-two or who or which shall aid or incite the violation of any of said provisions and any officer or member of a labor organization, as defined by section forty-three of this chapter, or any person representing any organization or acting in its behalf who shall violate any of the provisions of section forty-three of this chapter or who shall aid or incite the violation of any of the provisions of such section shall for each and every violation thereof be liable to a penalty of not less than one hundred dollars nor more than five hundred dollars, to be recovered by the person aggrieved thereby or by any resident of this state, to whom such person shall assign his cause of action, in any court of competent jurisdiction in the county in which the plaintiff or the defendant shall reside; and such person and the manager or owner of or each officer of such agency, bureau, corporation or association, and such officer or member of a labor organization or person acting in his behalf, as the case may be shall, also, for every such offense be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, or shall be imprisoned not less than thirty days nor more than ninety days, or both such fine and imprisonment. At or before the commencement of any action under this section, notice thereof shall be served upon the attorney general.

NORTH DAKOTA

(N. D. Laws 1961, ch. 128]

§ 1. Equal Rights in Public Places—Penalty.) No person shall be excluded on account of race, color, religion, or national origin from full and equal enjoyment of any accommodation, advantage, or privilege furnished by public conveyances, theaters, or other public places of amusement, or by hotels, barber shops, saloons, restaurants, or other places of refreshment, entertainment, or accommodation. Any person violating any of the provisions of this section or aiding or inciting another person to do the same shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

Approved March 16, 1961.

OHIO

[Ohio Rev. Code Ann. §§2901.35-2901.36 (1953)]

§2901.36 Bar to prosecution. (OC § 12942)

Either a judgment in favor of the person aggrieved, or the punishment of the offender upon an indictment under section 2901.35 of the Revised Code, is a bar to further prosecution for a violation of such section.

§2901.35 Denial of privileges at restaurants, stores, and other places by reason of color or race. (OC §§ 12940, 12941)

No proprietor or his employee, keeper, or manager of an inn, restaurant, eating house, barber shop, public conveyance by air, land, or water, theater, store, or other place for the sale of merchandise, or any other place of public accommodation or amusement, shall deny to a citizen, except for reasons applicable alike to all citizens and regardless of color or race, the full enjoyment of the accommodations, advantages, facilities, or privileges thereof, and no person shall aid or incite the denial thereof.

Whoever violates this section shall be fined not less than fifty nor more than five hundred dollars or imprisoned not less than thirty nor more than ninety days, or both and shall pay not less than fifty nor more than five hundred dollars to the person aggrieved thereby to be recovered in any court in the county where the violation was committed.

OREGON

[Ore. Rev. Stat. §§30,670 - 30,680; Ore. Laws 1961,
ch. 247]

30,670. Right of all persons to equal facilities in places of public accommodation, resort or amusement. All persons within the jurisdiction of this state shall be entitled to the full and equal accommodations, advantages, facilities and privileges of any place of public accommodation, resort or amusement, without any distinction, discrimination or restriction on account of race, religion, color or national origin. [1953, c. 495, §1]

30,675. (1) A place of public accommodation, resort or amusement, subject to the exclusion in subsection (2) of this section, means:

(a) Any hotel, motel, motor court, trailer park or campground,

(b) Any place offering to the public food or drink for consumption on or off the premises,

(c) Any place offering to the public entertainment, recreation or amusement.

(d) Any place offering to the public goods or services.

(2) However, a place of public accommodation, resort or amusement does not include any institution, bona fide club or place of accommodation, resort or amusement, which is in its nature distinctly private.

30,680. Action for damages by person discriminated against. All persons against whom any distinction, discrimination or restriction on account of race, religion, color or national origin has been made by any place of public accommodation, resort, or amusement as defined herein shall have a cause of action to recover damages in the sum of not to exceed \$500 from the operator, manager, or employe of such place, and in any such action the operator, manager or employe shall be jointly and severally liable. [1953, c. 495, §3]

PENNSYLVANIA

[Pa. Stat. Ann. Tit. 18 §465+ (1945)]

§465+. Discrimination on account of race and color

(a) All persons within the jurisdiction of this Commonwealth shall be entitled to the full and equal accommodations, advantages, facilities, and privileges of any places of public accommodation, resort or amusement, subject only to the conditions and limitations established by law and applicable alike to all persons. Whoever, being the owner, lessee, proprietor, manager, superintendent, agent or employe of any such place, directly or indirectly refuses, withholds from, or denies to, any person, any of the accommodations, advantages, facilities, or privileges thereof, or directly or indirectly publishes, circulates, issues, displays, posts or mails any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such places, shall be refused, withheld from, or denied to, any person on account of race, creed, or color, or that the patronage or custom thereof of any person belonging to, or purporting to be of, any particular race, creed or color is unwelcome, objectionable or not acceptable, desired or solicited, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not more than one hundred dollars (\$100), or shall undergo imprisonment for not more than ninety (90) days, or both.

(b) The production of any such written or printed communication, notice or advertisement, purporting to relate to any such place and to be made by any person being the owner, lessee, proprietor, superintendent or manager thereof, shall be presumptive evidence in any civil or criminal action that the same was authorized by such person.

(c) A place of public accommodation, resort or amusement, within the meaning of this section shall be deemed to include inns, taverns, road-houses, hotels, whether conducted for the entertainment of transient guests, or for the accommodation of those seeking health, recreation or rest, or restaurants or eating houses, or any place where food is sold for consumption on the premises, buffets, saloons, bar-rooms, or any store, park, or inclosure where spirituous or malt liquors are sold, ice cream parlors, confectioneries, soda fountains, and all stores where ice cream, ice and fruit preparations, or their derivatives, or where beverages of any kind are retailed for consumption on the premises, drug stores, dispensaries, clinics, hospitals, bath-houses, theatres, motion picture houses, airdromes, roof gardens, music halls, race courses, skating rinks, amusement and recreation parks, fairs, bowling alleys, gymnasiums, shooting galleries, billiard and pool parlors, public libraries, kindergartens, primary and secondary schools, High schools,

academies, colleges and universities, extension courses, and all educational institutions under the supervision of this Commonwealth, garages and all public conveyances operated on land or water, as well as the stations and terminals thereof.

(d) Nothing contained in this section shall be construed to include any institution, club or place or places of public accommodation, resort or amusement, which is or are in its or their nature distinctly private, or to prohibit the mailing of a private communication in writing sent in response to a specific written inquiry.

§955. Unlawful discriminatory practices

It shall be an unlawful discriminatory practice, unless based upon a bona fide occupational qualification, or except where based upon applicable security regulations established by the United States or the Commonwealth of Pennsylvania: . . .

(1) For any person being the owner, lessee, proprietor, manager, superintendent, agent or employe of any place of public accommodation, resort or amusement to

(1) Refuse, withhold from, or deny to any person because of his race, color, religious creed, ancestry or national origin, either directly or indirectly, any of the accommodations, advantages, facilities or privileges of such place of public accommodation, resort or amusement.

(2) Publish, circulate, issue, display, post or mail, either directly or indirectly, any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of race, color, religious creed, ancestry or national origin or that the patronage or custom thereof of any person, belonging to or purporting to be of any particular race, color, religious creed, ancestry or national origin is unwelcome, objectionable or not acceptable, desired or solicited.

RHODE ISLAND

[R. I. Gen. Laws Ann. Secs. 11-24-1—11-24-6 (1956)]

11-24-1. All persons entitled to full and equal accommodations. - All persons within the jurisdiction of this state shall be entitled to the full and equal accommodations, advantages, facilities and privileges of any place of public accommodation, resort or amusement, subject only to the conditions and limitations established by law and applicable alike to all persons.

11-24-2. Discriminatory practices prohibited. - No person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement shall directly or indirectly refuse, withhold from or deny to any person on account of race or color, religion or country of ancestral origin any of the accommodations, advantages, facilities or privileges thereof, and no person shall directly or indirectly publish, circulate, issue, display, post or mail any written, printed or painted communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of race or color, religion or country of ancestral origin, or that the patronage or custom thereof of any person belonging to or purporting to be of any particular race or color, religion or country of ancestral origin is unwelcome, objectionable or not acceptable, desired or solicited. The production of any such written, printed or painted communication, notice or advertisement, purporting to relate to any such place and to be made by any person being the owner, lessee, proprietor, superintendent or manager thereof, shall be presumptive evidence in any action that the same was authorized by such person.

11-24-3. Places of public accommodation defined. - A place of public accommodation, resort or amusement within the meaning of Secs. 11-24-1 to 11-24-3, inclusive, shall be deemed to include, but not be limited to inns, taverns, road houses, hotels, whether conducted for the entertainment or accommodation of transient guests or of those seeking health, recreation or rest, restaurants, eating houses or any place where food is sold for consumption on the premises; buffets, saloons, barrooms, or any store, park or enclosure where spirituous or malt liquors are sold; ice cream parlors, confectioneries, soda fountains, and all stores where ice cream, ice and fruit preparations or their derivatives, or where beverages of

any kind are retailed for consumption on the premises; retail stores and establishments, dispensaries, clinics, hospitals, rest rooms, bath houses, barber shops, beauty parlors, theaters, motion picture houses, music halls, airdromes, roof gardens, race courses, skating rinks, amusement and recreation parks, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiard and pool parlors, swimming pools, seashore accommodations and boardwalks, public libraries; garages; all public conveyances operated on land, water or in the air as well as the stations and terminals thereof; public halls and public elevators of buildings occupied by two or more tenants or by the owner and one or more tenants; and public housing projects. Nothing herein contained shall be construed to include any place of accommodation, resort or amusement which is in its nature distinctly private.

11-24-4. Enforcement of anti-discrimination provisions. -

The Rhode Island commission against discrimination is empowered and directed, as hereinafter provided, to prevent any person from violating any of the provisions of Secs. 11-24-1 to 11-24-3, inclusive, provided that before instituting a formal hearing it shall attempt by informal methods of conference, persuasion and conciliation, to induce compliance with the said sections. Upon the commission's own initiative or whenever an aggrieved individual or an organization chartered for the purpose of combating discrimination or racism or of safeguarding civil liberties, such individual or organization being hereinafter referred to as the complainant, makes a charge to the said commission that any person, agency, bureau, corporation or association, hereinafter referred to as the respondent, has violated or is violating any of the provisions of Secs. 11-24-1 to 11-24-3, inclusive, the said commission may proceed in the same manner and with the same powers as provided in Secs. 28-5-16 to 28-5-27, inclusive, and the provisions of Secs. 28-5-13 and 28-5-16 to 28-5-36, inclusive, as to the powers, duties and rights of the commission, its members, hearing examiners, the complainant, respondent, interviewer and the court shall apply in any proceedings under this section.

11-24-5. Liberal construction of provisions. - The provisions of Secs. 11-24-1 to 11-24-5, inclusive, shall be construed liberally for the accomplishment of the purposes thereof, and any law inconsistent with any provisions thereof shall not apply. Nothing contained in said sections shall be deemed to repeal any of the provisions of any law of this state relating to discrimination because of race or color, religion or country of ancestral origin.

11-24-6. Severability of provisions. - If any clause, sentence, paragraph or part of Secs. 11-24-1 to 11-24-6, inclusive, or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of said sections or their application to other persons or circumstances.

SOUTH DAKOTA

[S. D. Law 1963, S. 1001]

ENTITLED, An Act Entitling all Persons Equal Rights in Public Places and Prohibiting Discrimination in such Places on Account of Race, Color, Religion or National Origin and Providing a Penalty Therefor.

Be it Enacted by the Legislature of the State of South Dakota:

Section 1. No person shall be excluded on account of race, color, religion, or national origin from full and equal enjoyment of any accommodation, advantage, or privilege furnished by public conveyances, theaters, or other public places of amusement, or by hotels, motels, barber shops, saloons, restaurants, or other places of refreshment, entertainment, or accommodation.

Section 2. Notwithstanding the above, no owner or operator of any of the above establishments or facilities shall be compelled to permit anyone who is breaking the peace or is of improper deportment to enjoy, occupy or use such establishments or facilities.

Section 3. Any person violating any of the provisions of this section or aiding or inciting another person to do the same shall be punished by a fine of not to exceed \$200.00.

VERMONT

[Vt. Stat. Ann. Tit. 13 §§1451-1452 (1958)]

§1451. Public accommodations

(a) An owner or operator of a place of public accommodation or an agent or employee of said owner or operator shall not, because of the race, creed, color or national origin of any person, refuse, withhold from or deny to such person any of the accommodations, advantages, facilities and privileges of such place of public accommodation.

(b) A place of public accommodation within the meaning of this chapter means any establishment which caters or offers its services or facilities or goods to the general public.

Source. 1957, No. 109, §1.

§1452. Penalty

A person who violates a provision of section 1451 of this title shall be fined not more than \$500.00 or imprisoned not more than thirty days, or both.

Source. 1957, No. 109, §2.

WASHINGTON

[Wash. Rev. Code Secs. 49.60.010—49.60.320;
Washington Laws 1961, ch. 103]

49.60.010 Purpose of chapter. This chapter shall be known as the "law against discrimination." It is an exercise of the police power of the state for the protection of the public welfare, health and peace of the people of this state, and in fulfillment of the provisions of the Constitution of this state concerning civil rights. The legislature hereby finds and declares that practices of discrimination against any of its inhabitants because of race, creed, color, or national origin are a matter of state concern, that such discrimination threatens not only the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state. A state agency is herein created with powers with respect to elimination and prevention of discrimination in employment, in places of public resort, accommodation or amusement, and in publicly assisted housing because of race, creed, color, or national origin; and the board established hereunder is hereby given general jurisdiction and power for such purposes. [1957 c 37 Sec 1; 1949 c 183 Sec 1; Rem. Supp. 1949 Sec 7614-20.]

49.60.020. Construction of chapter—Election of other remedies. The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this chapter shall be deemed to repeal any of the provisions of any other law of this state relating to discrimination because of race, color, creed, or national origin. Nor shall anything herein contained be construed to deny the right to any person to institute any action or pursue any civil or criminal remedy based upon an alleged violation of his civil rights. However, the election of a person to pursue such a remedy shall preclude him from pursuing those administrative remedies created by this chapter. [1957 c 37 Sec 2; 1949 c 183 Sec 12; Rem. Supp. 1949 Sec 7614-30].

49.60.030 Freedom from discrimination—Declaration of civil rights. The right to be free from discrimination because of race, creed, color, or national origin is recognized as and declared to be a civil right. This right shall include, but not be limited to:

- (1) The right to obtain and hold employment without discrimination;
- (2) The right to the full enjoyment of any of the accommodations, advantages, facilities or privileges of any place of public

resort, accommodation, assemblage or amusement;

(3) The right to secure publicly assisted housing without discrimination. [1957 c 37 Sec 3; 1949 c 183 Sec 2; Rem. Supp. 1949 Sec 7614-21.7]

19.60.040. Definitions.

As used in this chapter:

"Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers of any group of persons; it includes any owner, lessee, proprietor, manager, agent or employee, whether one or more natural persons; and further includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof;

. . .

"National origin" includes "ancestry";

"Full enjoyment of" includes the right to purchase any service, commodity or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage or amusement, without acts directly or indirectly causing persons of any particular race, creed or color, to be treated as not welcome, accepted, desired or solicited;

"Any place of public resort, accommodation, assemblage or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire or reward, or where charges are made for admission, service, occupancy or use of any property or facilities, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation or public purposes, or public halls,

public elevators and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: Provided, That nothing herein contained shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything herein contained apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution;

. . .

"Owner" includes the owner, lessee, sublessee, assignee, agent, creditor, lender or other person having the right to ownership or possession of housing, or to have housing pledged as security for a debt.

19.60.050 Board created. There is created the "Washington state board against discrimination," which shall be composed of five members to be appointed by the governor, one of whom shall be designated as chairman by the governor. /1957 c 37 Sec 5; 1955 c 270 Sec 2. Prior: 1949 c 183 Sec 4, part; Rem. Supp. 1949 Sec 7614-23, part./

19.60.060 Membership of board. One of the original members of the board shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, but their successors shall be appointed for terms of five years each, except that any individual any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, or national origin, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification: Provided, Nothing contained herein shall prohibit advertising in a foreign language. /1957 c 37 Sec 11. Prior: 1949 c 183 Sec 7, part; Rem. Supp. 1949 Sec 7614-26, part./

19.60.210 Unfair to discriminate against person opposing unfair practice. It is an unfair practice for any employer, employment agency, or labor union to discharge, expel, or otherwise discriminate against any person because he has opposed any practices forbidden by this chapter, or because he has filed a charge, testified, or assisted in any proceeding under this chapter. /1957 c 37 Sec 12. Prior: 1949 c 183 Sec 7, part; Rem. Supp. 1949 Sec 7614-26, part./

19.60.215 Unfair practices of places of public resort, accommodation, assemblage, amusement. It shall be an unfair practice for any person or his agent or employee to commit an act which directly or indirectly results in any distinction, restriction, or discrimination or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement except for conditions and limitations established by law and applicable to all persons, regardless of race, creed, color, or national origin. /1957 c 37 Sec 14./

19.60.216 Blind person with guide dog not to be refused service. No blind person shall be refused service in any place of public resort, accommodation, assemblage or amusement solely by reason of the fact that he is accompanied by a guide dog. For the purpose of this section the term "guide dog" shall mean a dog which is in working harness and is trained or approved by an accredited school engaged in training dogs for the purpose of guiding blind persons. /1959 c 48 Sec 1./

...

19.60.220 Unfair practice to aid violation. It is an unfair practice for any person to aid, abet, encourage, or incite the commission of any unfair practice, or to attempt to obstruct or prevent any other person from complying with the provisions of this chapter or any order issued thereunder. /1957 c 37 Sec 13. Prior: 1949 c 183 Sec 7, part; Rem. Supp. 1949 Sec 7614-26, part./

19.60.230 Complaint may be filed with board. Who may file a complaint:

(1) Any person claiming to be aggrieved by an alleged unfair practice may, by himself or his attorney, make, sign, and file with the board a complaint in writing under oath. The complaint shall state the name and address of the person alleged to have committed the unfair practice and the particulars thereof, and contain such other information as may be required by the board.

(2) Whenever it has reason to believe that any person has been engaged or is engaging in an unfair practice, the board may issue a complaint.

(3) Any employer or principal whose employees, or agents, or any of them, refuse or threaten to refuse to comply with the provisions of this chapter may file with the board a written complaint under oath asking for assistance by conciliation or other remedial action.

Any complaint filed pursuant to this section must be so filed within six months after the alleged act of discrimination. /1957 c 37 Sec 16; 1955 c 270 Sec 15. Prior: 1949 c 183 Sec 8, part; Rem. Supp. 1949 Sec 7614-27, part./

49.60.240 Complaint investigated - Conference, conciliation - Agreement, findings. After the filing of any complaint, the chairman of the board shall refer it to the appropriate section of the board's staff for prompt investigation and ascertainment of the facts. The results of the investigation shall be reduced to written findings of fact, and a finding shall be made that there is or that there is not reasonable cause for believing that an unfair practice has been or is being committed. A copy of said findings shall be furnished to the complainant and to the person named in such complaint, herein-after referred to as the respondent.

If the finding is made that there is reasonable cause for believing that an unfair practice has been or is being committed, the board's staff shall immediately endeavor to eliminate the unfair practice by conference, conciliation and persuasion.

If an agreement is reached for the elimination of such unfair practice as a result of such conference, conciliation and persuasion, the agreement shall be reduced to writing and signed by the respondent, and an order shall be entered by the board setting forth the terms of said agreement. No order shall be entered by the board at this stage of the proceedings except upon such written agreement.

If no such agreement can be reached, a finding to that effect shall be made and reduced to writing, with a copy thereof furnished to the complainant and the respondent. 1957 c 37 Sec 17; 1955 c 270 Sec 16. Prior: 1919 c 183 Sec 8, part; Rem. Supp. 1949 Sec 7614-27, part.]

19.60.250 Hearing of complaint by tribunal—Order. In case of failure to reach an agreement for the elimination of such unfair practice, and upon the entry of findings to that effect, the entire file, including the complaint and any and all findings made, shall be certified to the chairman of the board. The chairman of the board shall thereupon appoint a hearing tribunal of three persons, who shall be members of the board or a panel of hearing examiners acting in the name of the board, to hear the complaint and shall cause to be issued and served in the name of the board a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of the complaint at a hearing before such tribunal, at a time and place to be specified in such notice.

The place of any such hearing may be the office of the board or another place designated by it. The case in support of the complaint shall be presented at the hearing by counsel for the board: Provided, That the complainant may retain independent counsel and submit testimony and be fully heard. No member or employee of the board who previously made the investigation or caused the notice to be issued shall participate in the hearing except as a witness, nor shall he participate in the deliberations of the tribunal in such case. Any endeavors or negotiations for conciliation shall not be received in evidence.

The respondent may file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard.

The tribunal conducting any hearing may permit reasonable amendment to any complaint or answer. Testimony taken at the hearing shall be under oath and recorded.

If, upon all the evidence, the tribunal finds that the respondent has engaged in any unfair practice it shall state its findings of fact and shall issue and file with the board and cause to be served on such respondent an order requiring such respondent to cease and desist from such unfair practice and to take such

affirmative action, including, (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, an admission or restoration to full membership rights in any respondent organization, or to take such other action as, in the judgment of the tribunal, will effectuate the purposes of this chapter, and including a requirement for report of the matter on compliance.

If, upon all the evidence, the tribunal finds that the respondent has not engaged in any alleged unfair practice, it shall state its findings of fact and shall similarly issue and file an order dismissing the complaint.

The board shall establish rules of practice to govern, expedite and effectuate the foregoing procedure. [1957 c 37 Sec 18; 1955 c 270 Sec 17. Prior: 1949 c 183 Sec 8, part; Rem. Supp. 1949 Sec 7614-27, part.]

19.60.255 Reconsideration. If the complainant is dissatisfied with the agreement reached as provided in RCW 19.60.240, or if the finding is made as provided for in this chapter, that there is no reasonable cause for believing that an unfair practice has been or is being committed, the complainant may within thirty days of approval by the board of such agreement or from receipt of a copy of said finding file a petition for reconsideration by the board and he shall have the right to appear before the board at its next regular meeting in person or by counsel and present such facts, evidence and affidavits of witnesses as may support the complaint.

The board shall establish rules of practice to govern, expedite, and effectuate the foregoing procedure. [1957 c 37 Sec 19.]

19.60.260 Court may enforce orders of tribunal—Appeal from court order. (1) The board shall petition the court within the county wherein any unfair practice occurred or wherein any person charged with an unfair practice resides or transacts business, for the enforcement of any order which is not complied with and is issued by a tribunal under the provisions of this chapter and for appropriate temporary relief or a restraining order, and shall certify and file in court a transcript of the entire record of the proceedings, including the pleadings and testimony upon which such order was made and the finding and orders of the hearing tribunal. Within five days after filing such petition in court the board shall cause a notice of the petition to be sent by registered mail to all parties or their representatives.

The court shall have jurisdiction of the proceedings and of the questions determined thereon, and shall have the power to issue such orders and grant such relief by injunction or otherwise, including temporary relief, as it deems just and suitable and to make and enter, upon the pleadings, testimony and proceedings set forth in such transcript, a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part any order of the board or hearing tribunal.

(2) The findings of the hearing tribunal as to the facts, if supported by substantial and competent evidence shall be conclusive. The court, upon its own motion or upon motion of either of the parties to the proceeding, may permit each party to introduce such additional evidence as the court may believe necessary to a proper decision of the cause.

(3) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to a review by the supreme court, on appeal, by either party, irrespective of the nature of the decree or judgment. Such appeal shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases of appeal to the supreme court, and the record so certified shall contain all that was before the lower court. [1957 c 37 Sec 21. Prior: 1949 c 183 Sec 9, part; Rev. Supp. 1949 Sec 7614-27A, part.]

49.60.270 Appeal from orders of tribunal. Any respondent or complainant aggrieved by a final order of a hearing tribunal may obtain a review of such order in the superior court for the county where the unfair practice is alleged to have occurred or in the county wherein such person resides or transacts business by filing with the clerk of the court, within two weeks from the date of receipt of such order, a written petition in duplicate praying that such order be modified or set aside. The clerk shall thereupon mail the duplicate copy to the board. The board shall then cause to be filed in the court a certified transcript of the entire record in the proceedings, including the pleadings, testimony and order. Upon such filing the court shall proceed in the same manner as in the case of a petition by the board and shall have the same exclusive jurisdiction to grant to any party such temporary relief or restraining order as it deems just and suitable, and in like manner to make and enter a decree enforcing or modifying and enforcing as so modified or setting aside, in whole or in part, the order sought to be reviewed.

Unless otherwise directed by the court, commencement of review proceedings under this section shall operate as a stay of any order. /1957 c 37 Sec 22. Prior: 1949 c 183 Sec 9, part; Rem. Supp. 1949 Sec 7614-27A, part./

49.60.280 Court shall expeditiously hear and determine. Petitions filed under RCW 49.60.260 and 49.60.270 shall be heard expeditiously and determined upon the transcript filed, without requirement of printing. Hearings in the court under this chapter shall take precedence over all other matters, except matters of the same character. /1957 c 37 Sec 23. Prior: 1949 c 183 Sec 9, part; Rem. Supp. 1949 Sec 7614-27A, part./

49.60.290 Court may not restrain or enjoin board. No court of this state shall have jurisdiction to issue any restraining order or temporary or permanent injunction preventing the board from performing any function vested in it by this chapter. /1957 c 37 Sec 24. Prior: 1949 c 183 Sec 9, part; Rem. Supp. 1949 Sec 7614-27A, part./

49.60.300 Inapplicability of RCW 49.60.260-49.60.290. RCW 49.60.260 to 49.60.290, inclusive, shall not be applicable to orders issued against any political or civil subdivision of the state, or any agency, office, or employee thereof. /1957 c 37 Sec 25. Prior: 1949 c 183 Sec 9, part; Rem. Supp. 1949 Sec 7614-27A, part./

49.60.310 Misdemeanor to interfere with or resist board. Any person that wilfully resists, prevents, impedes, or interferes with the board or any of its members or representatives in the performance of duty under this chapter, or that wilfully violates an order of the board, is guilty of a misdemeanor; but procedure for the review of the order shall not be deemed to be such wilful conduct. /1957 c 37 Sec 26; 1949 c 183 Sec 10; Rem. Supp. 1949 Sec 7614-28./

19.60.320 Governor may act on orders against state or political subdivisions. In any case in which the board shall issue an order against any political or civil subdivision of the state, or any agency, or instrumentality of the state or of the foregoing, or any officer or employee thereof, the board shall transmit a copy of such order to the governor of the state who shall take such action as he deems appropriate to secure compliance with such order. [1949 c 183 Sec 11; Rem. Supp. 1949 Sec 7614-29.]

WISCONSIN

[Wis. Stat. Ann. §942.04 (1958)]

942.04 Denial of rights

(1) Whoever does any of the following may be fined not more than \$200 or imprisoned not more than 6 months or both:

(a) Denies to another or charges another a higher price than the regular rate for the full and equal enjoyment of any public place of accommodation or amusement because of his race, color, creed, national origin or ancestry; or

(b) Directly or indirectly publishes, circulates, displays or mails any written communication which he knows is to the effect that any of the facilities of any public place of accommodation or amusement will be denied to any person by reason of his race, color, creed, national origin or ancestry or that the patronage of a person is unwelcome, objectionable, or unacceptable for any of these reasons; or

(c) Refuses to furnish or charges another a higher rate for any automobile insurance because of his race, color, creed, national origin or ancestry.

(2) A public place of accommodation or amusement includes inns, restaurants, taverns, barber shops and public conveyances.

(3) The person aggrieved may recover damages of not less than \$25 and costs in a civil action. But a final judgment in a civil action shall bar any further criminal proceeding under this section or a judgment in a criminal prosecution under this section shall bar any further proceedings in a civil action.

WYOMING

[Wyo. Stat. Ann. Secs. 6-83-1—6-83-2 (Supp. 1961)]

Sec. 6-83-1. Discrimination on account of race, etc., in places which are public in nature—Prohibited.

All persons of good deportment within the jurisdiction of this state shall be entitled to the full and equal enjoyment of all accommodations, advantages, facilities and privileges of all places or agencies which are public in nature, or which invite the patronage of the public, without any distinction, discrimination or restriction on account of race, religion, color or national origin. (Laws 1961, ch. 103, Sec. 1.)

Sec. 6-83-2. Same—Penalty for violation.

Any person who shall willfully violate any of the provisions of this act [Secs. 6-83-1, 6-83-2] shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars (\$100.00) or imprisoned in the county jail for a term not to exceed ninety (90) days, or both. (Laws 1961, ch. 103, Sec. 2.)

(NOTE: On May 14, 1963, the Governor Kentucky issued an executive order requiring public accommodations to be open for the public use of all citizens without discrimination.

On June 28, 1963, the Delaware Senate passed a public accommodation bill that will insure complete integration of the State's hotels, motels and restaurants. The bill must pass the State House of Representatives but final passage is expected.

APPENDIX IV

LIBRARY OF CONGRESS

LEGISLATIVE REFERENCE SERVICE

THE VALIDITY OF STATE STATUTES PROHIBITING DISCRIMINATIONS ON ACCOUNT OF RACE OR COLOR IN PLACES OF PUBLIC ACCOMMODATION

Notwithstanding the invalidation by the Supreme Court in the *Civil Rights Cases*, 109 U.S. 3 (1883) of Federal legislation prohibiting discrimination on account of race or color in places of public accommodation, many of the States, both before and after the passage of the Federal act, have enacted measures in this area. State activity in this field began with the 1865 passage by the Massachusetts Legislature of a statute, forbidding distinction, discrimination, or restriction on account of race or color in places of public amusement, public conveyance or public meeting. State action is still continuing as the issuance on June 26, 1963, by the Governor of Kentucky of a sweeping executive order in this area attests.

Under our Federal system, the issues with regard to the validity of State legislation are utterly different from those upon which the constitutionality of Federal legislation (even that of a similar nature) hinges. By reason of the broad scope of the authority of the State to legislate under the police power to protect the health, safety, morals, and general welfare of its citizens, the validity of State regulation in this field has never been seriously challenged. While the Federal Government may only legislate pursuant to power delegated and enumerated in the Constitution, the police power of the State is bounded only by the express provisions of the State or Federal constitution including the requirements of due process of law. Due process does not require the demonstration of either the wisdom or sound policy of an antidiscrimination statute. However, such statute must not be clearly arbitrary and unreasonable, and it must bear some relation to the public health, safety, or general welfare. *Euclid v. Ambler Co.*, 272 U.S. 365, 395 (1926). Although no frontal attack on the validity under the federal constitution of State statutes prohibiting discrimination in places of public accommodation has been made, the Supreme Court has indicated in several cases that there is no Federal constitutional infirmity in State statutes creating a right to the full enjoyment of public accommodations without regard to race or color whose violation is civilly or criminally actionable. *Bob-Lo Excursion Co. v. Michigan*, 333 U.S. 28 (1948). Compare *Railway Mail Assn. v. Corsi*, 326 U.S. 88 (1945). A categorical statement as to the validity of State regulation in this area is found in *District of Columbia v. Thompson Co.*, 346 U.S. 100 (1953), wherein the Court declared, "And certainly so far as the Federal Constitution is concerned there is no doubt that legislation which prohibits discrimination on the basis of race in the use of facilities serving a public function is within the police power of the States." *Id.* at 109.

In many of the States, the validity of state regulations in this area has been generally assumed. For example there was no direct challenge presented to the Massachusetts statute, first enacted in 1865 (Massachusetts Laws 1865, ch. 277). Yet the Massachusetts high court while rendering an advisory opinion, in *Re Opinion of the Justices*, 143 N.E. 808 (1924), made some pertinent comments upon the validity and reasonableness of this type of legislation.

"Numerous reasons lead to the conclusion that the maintenance of theaters and other places of amusement is for the use of the public and affected with a public interest. The character of the performances presented has an intimate connection with the preservation and promotion of public morality. . . . They have a tendency to gather at one time large numbers of people under a single roof and under comparatively crowded conditions. In these particulars such places require constant supervision and inspection in the interests of the public at large in order to prevent disaster by fire and accident, spread of disease, and general and individual disorder and crime. The construction and maintenance of buildings devoted to such uses demand approval and oversight by public officers acting for the general welfare. There can be no doubt as to the validity of a statute denouncing under penalty discrimination on account of race or color in admission to theaters and other places of amusement." [Emphasis supplied.] *Id.* at 810.

And in California where the civil code, sections 51, 52, contained a prohibition against discrimination in places of public accommodation and amusement "for more than 50 years prior to the enactment of the (present) Unruh Act," the challenges to the statute have been based upon the scope of its application rather than upon its validity. In 1918 the California court remarked, after quoting the statute, "The general intent and significance of the foregoing provisions are clear enough. The purpose, of course, is to compel a recognition of the equality of citizens in the right to the peculiar service afforded by these agencies for the accommodation and entertainment of the public. There is no doubt of the constitutionality of the provisions and of the sound public policy of such legislation (*Greenberg v. Western Turf Ass'n*, 140 Cal. 363, 73 Pac. 1050; *Piluso v. Spencer*, 172 Pac. 412, 413 (1918)). See also *Burks v. Poppy Construction Company* 370 P. 2d 313 (1962).

In other States where this type of legislation has been challenged, these laws have been sustained as a valid exercise of the police power of the State. Noteworthy is the 1888 attack upon the constitutionality of the New York public accommodation statute on the ground that, insofar "as it undertakes to prescribe that the owner of a place of amusement shall not exclude therefrom any citizen by reason of race, color, or previous condition of servitude, [it] is an unconstitutional interference with private rights in that it restricts the owner of property in respect to its lawful use, and as to an incident which is not a legitimate matter of regulation by law" (*People v. King*, 18 N.E. 245, 246 (1888)). In considering the assertion of invalidity, the court gave a definition of the police power that is worthy of quotation:

"This legislation is under what, for lack of a better name, is called the police power of the state,—a power incapable of exact definition, but the existence of which is essential to every well-ordered government. By means of this power the legislature exercises a supervision over matter involving the common weal, and enforces the subservance by each individual member of society of the duties which he owes to others and to the community at large. It may be exerted whenever necessary to secure the peace, good order, health, morals, and general welfare of the community; and the propriety of its exercise within constitutional limits is purely a matter of legislative discretion, with which the courts cannot interfere. In short, the police power covers a wide range of particular unexpressed powers reserved to the State, affecting freedom of action, personal conduct, and the use and control of property" (18 N.E. at 247).

Then the court addressed itself to the contention of unconstitutionality as follows:

"The final question, therefore, is, does the law in question invade this right of property protected by the Constitution? The State could not pass a law making the discrimination made by the defendant. The amendments to the Federal Constitution would forbid it. Can the State impose upon individuals having places of public resort the same restriction which the Federal Constitution places upon the State? It is not claimed that that part of the statute giving to colored people equal rights at the hands of innkeepers and common carriers is an infraction of the Constitution. But the business of an innkeeper or a common carrier, when conducted by an individual, is a private business, receiving no special privilege or protection from the State. By the common law, innkeepers and common carriers are bound to furnish equal facilities to all without discrimination, because public policy requires them so to do. The business of conducting a theater or place of public amusement is also a private business, in which any one may engage in the absence of any statute or ordinance. But it has been the practice, which has passed unchallenged, for the legislature to confer upon municipalities the power to regulate by ordinance the licensing of theaters and shows, and to enforce restrictions relating to such places, in the public interest; and no one claims that such statutes are an invasion of the right of liberty or property guaranteed by the Constitution. The statute in question assumes to regulate the conduct of owners or managers of places of public resort in respect to the exclusion therefrom of any person by reason of race, color, or previous condition of servitude. The principle stated by Waite, C. J., in *Munn v. Illinois*, *supra*, which received the assent of a majority of the court, applies in this case? "Where," says the chief justice, "one devotes his property to a use in which the public have an interest, he in effect grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created." In the judgment of the legislature, the public had an interest to prevent race

discrimination between citizens on the part of persons maintaining places of public amusement; and the quasi-public use to which the owner of such a place devoted his property gives the legislature a right to interfere. If the defendant, instead of basing his exclusion of a class of citizens upon color, had made a rule excluding all Germans, or all Irishmen, or all Jews, the law, as applied to such a case would have seemed entirely reasonable. See *U.S. v. Newcomer*, (U.S. Dist. Ct.) 11 Phila. 519. But the principle is the same; and if the law could be applied in the one case, it may in the other. The validity of similar statutes in Mississippi and Louisiana has been sustained by the courts in those States (*Donnel v. State*, 48 Miss. 661; *Joseph v. Bidwell*, 28 La. Ann. 352). The statute does not interfere with private entertainments, or prevent person not engaged in the business of keeping a place of public amusement from regulating admission to an entertainment given for a social, public, or private purpose, as they may deem best; or does it seek to compel social equality. It was, we think, a valid exercise of the police power of the State over a subject within the cognizance of the legislature. The judgment should be affirmed.

Mention should also be made of the landmark Michigan case of *Bolden v. Operating Corporation*, 239 Mich. 318, 323 (1927), wherein the Michigan court upheld the Public Accommodations Act of that State as follows:

"The validity of the act in question is in no way affected by these decisions. The intent and purpose of the legislature in its enactment cannot be doubted. It clearly indicates a belief on their part that the public safety and general welfare of our people demand that, when the public are invited to attend places of public accommodation, amusement, and recreation, there shall be no discrimination among those permitted to enter because of race, creed, or color. It is bottomed upon the broad ground of the equality of all men before the law. It does not provide that all persons who present themselves at a theater must be admitted. The proprietor may exclude 'the rough, boisterous, and rowdyish element.' (*McIsner v. Detroit, etc., Ferry Co.*, 154 Mich. 545 (129 Am. St. Rep. 493)).

"In our opinion, the act is a valid regulation imposed by the State in its exercise of the police power."

Cases in which State courts have construed these statutes and found them valid include the following: *Darius v. Apostolos*, 100 Pac. 510 (1920) [Colorado]; *Chicago v. Carney*, 142 N.E. 2d 160 (1957) [Illinois]; *Brown v. J. H. Beel Co.*, 123 N.W. 231 (1919) [Iowa]; *Rhone v. Loomis*, 77 N.W. 31, 32 (1898) [Minnesota]; *McIsner v. State*, 41 N.W. 638 (1889) [Nebraska]; *Commonwealth v. Athens George*, 18 Dauphin 40 (1887) [Pennsylvania]; *Bryan v. Alder*, 72 N.W. 368 (1897) [Wisconsin]. See also Annotation 49 A.L.R. Constitutionality of "Civil Rights" Legislation by State.

GALER T. BUTCHER, *Legislative Attorney.*

June 28, 1963.

APPENDIX V

THE LIBRARY OF CONGRESS,
LEGISLATIVE REFERENCE SERVICE,
Washington, D.C., July 17, 1963.

To: The Honorable Warren G. Magnuson,

From: Economics Division.

Subject: An episode account of economic effects of segregation and resistance to segregation in the South.

This memorandum presents in chronological order from 1959 to date illustrative examples, as reported in newspapers and periodicals, of economic impact resulting from resistance to segregation practices, and from changing segregation practices, in various parts of the country, primarily in the South. It does not attempt to deal with the economic impact of long-standing segregation practices per se, such as the cost of maintaining separate school systems and other facilities for the different races, the large-scale northward Negro migration resulting in large measure from lack of opportunity for Negroes under prevailing segregation practices, and income and other economic differentials, arising, at least in part, because of segregation practices.

"Mr. Bob Short, owner of the Minneapolis Lakers, said on the matter of possible franchises for professional basketball teams in Texas, 'The segrega-

tion problem would make it difficult for an NBA team to place a franchise there, in my opinion," (N.Y. Times, Jan. 18, 1959, p. 52).

"As a result of Minneapolis Laker's rookie star Elgin Baylor's refusal to play in Charleston, W. Va., in protest to the refusal of a hotel there to accommodate him with other members of the team, the board of governors of the National Basketball Association announced a decision to insist on a protective clause in contracts for games in neutral cities. Officials of the NBA said there had not been any segregation problem during games played in the home cities of the eight teams in the professional league, but games have often been played in southern cities where housing problems have arisen. Of the 80 players in the league roster 20 were Negroes. Maurice Podoloff, president of the NBA, said the protective clause was aimed particularly at discrimination against Negro players and was intended to protect players from any sort of discriminatory or embarrassing situations" (New York Times, Jan. 23, 1959, p. 15).

"This thing has frightening ramifications. It is more serious than people realize. It has now become an economic situation affecting an entire community, the whole city, and the whole country," with these words, a top retail executive described the Negro boycott in progress there against downtown stores . . . As Negroes seek and find techniques for bringing pressure on the white community such as sit-ins, picketings and other demonstrations—accompanied in some communities by violence and arrests, their struggle against segregation is producing a situation that will affect businessmen for a long time. In many cities in the South these activities are generating great social unrest that is also having a noticeable impact on business. Merchants in several cities, for example, ascribe loss of sales not only to specific Negro boycotts but also to the tense atmosphere that keeps people, Negro and white, away from downtown stores" (Business Week, Apr. 23, 1960, p. 33, "Negro Business Pressure Grows").

"Commissioner Bernard Katzen, State commission against discrimination, announced that public golf links in New York City and Westchester and five State-owned golf courses in Nassau County will ban all future tournaments sponsored by the Metropolitan Golf Association because Negroes are reportedly barred from these events. The association's public links championship finals were played June 11, 12, 18, and 19 at Rockleigh, a Bergen County public course in New Jersey" (New York Times, June 29, 1960, p. 35).

"Last February 2, when some Negro college students tried to sit down at a segregated Greensboro (N.C.) lunch counter, business became directly involved in the racial problem. And as the Negro movement has widened, businessmen—from retailers in affected towns to chainstore management far from actual scenes of demonstrations—are being increasingly drawn into the racial struggle" (Business Week, Dec. 17, 1959, p. 32, "South's Race Disputes Involve Businessman").

"The George Washington University Student Council voted to discontinue the student body's annual "Colonial Cruise" to Marshall Hall Amusement Park because the park will not admit Negroes. The "Colonial Cruise" on Wilson Line excursion boats to the amusement park at Marshall Hall, Md., across the Potomac from Mount Vernon, has been a spring event for students of the university since the early 1930's. About 500 were expected to make the trip late next month" (Washington Post, Mar. 8, 1961, p. B-2).

"Economic considerations rather than sit-in demonstrations or court pressure may prove to be the decisive factor in forcing privately owned businesses to accept desegregation. That is indicated by the results of the 14-month campaign by southern Negroes against racial barriers in these establishments . . . The demonstrators have been aided by the changing patterns of the cities themselves. Whites have been moving to the suburbs in increasing numbers, while the Negro population of the central city has been growing rapidly. Downtown merchants face intense competition today from suburban shopping centers. For many of them, Negro patronage represents the difference between profit and loss" (New York Times, May 7, 1961, p. 10E).

"The Metropolitan Opera Association will no longer play to segregated audiences in the South, according to Rudolf Bing, general manager . . . The opera is playing to packed unsegregated audiences in Detroit this week . . . 'The time has come,' Mr. Bing said, 'when the Metropolitan Opera can no longer play to segregated audiences, and we have so advised our friends in Atlanta and Dallas, which are the two southern cities on the 1962 Metropolitan tour . . . We are hopeful our friends in Atlanta and Dallas will be able to work things out'" (New York Times, May 23, 1961, p. 1).

"Sidney Smyer, president of Birmingham Chamber of Commerce, and many Alabama businessmen are convinced the State's industrial and commercial growth will be stunted for months or perhaps years by the violence which greeted the integrated band of 'Freedom Riders' bent on destroying segregation barriers in interstate transportation facilities. Some Alabama businessmen report they have already run into instances of firms dropping or reconsidering plans to set up operations in the State because of racial disturbances.

"Southern concern over the economic impact of racial tensions isn't confined to Alabama. Reporters interviewing business leaders in Atlanta, Jacksonville, and other southern cities find many of them concluding that racial troubles are hampering the entire region's economic development. These feelings were prevalent even before race tension rose to the surface in Alabama.

"A failure in the South to maintain law and order can cost bitterly in the job opportunities and the wealth that so much need to increase if our citizens are to be well served," observed Malcolm Bryan, president of the Federal Reserve Bank of Atlanta.

"Pondering the running battle over desegregation of schools, an executive at the Jacksonville, Fla. offices of a major insurance company said, 'Southern branch plants are having trouble keeping management because the management class does not want its children to face a possible closing of public schools.'

"Aside from the social and legal aspects, the economic stakes in the current race struggle are becoming evident to Birmingham businessmen. 'We have been hurt and hurt bad,' declared a top official of one of the city's largest banks. 'In the past few days, I bet I've spent more than \$50 in telephone calls trying to convince a big Ohio company that it should locate a pilot plant in Alabama. But I'm afraid we've lost it to New England and lost it strictly because of the unrest down there. The pilot plant in its first stage was scheduled to cost about \$3 million, and, if it had worked out, the company was thinking in terms of a further investment of \$40 to \$50 million.'

"In Montgomery, a real estate agent told a similar tale. 'Last Friday I rented an office building to a St. Louis company planning to begin operations here, but the contracts weren't to be signed until after the weekend. Now the fight has scared them, and we don't know whether they're going to rent the space or not. It would have meant about \$12,000 a year in rentals for my client.'

"* * * In Little Rock, industrial development skidded to a halt after the flareup over school integration in 1957. The Arkansas capital city had attracted an average of five new plants a year ranging in value from \$100,000 to \$3 million between 1950 and 1957. In the early months of 1957, before the outbreak of violence—over school integration eight new plants were opened. But, according to Everett Tucker, director of Little Rock's Industrial Development Commission, in the nearly 4 years since the start of the school troubles there has not been 'a single major industrial expansion.' * * * for the whole State, the record is similar. In 1956 the year before the fracas, companies invested a record \$131 million in new facilities in the State. This fell to \$44.9 million in 1957 and to only \$25.4 million in 1958. Since then, there has been some recovery in spending on plants, but last year's \$35 million outlay was still less than half the 1956 total" (Wall Street Journal, May 26, 1961, pp. 1, 10).

"Fifty-four producers of live industrial shows, sponsored by corporations, have agreed to bar segregation at their performances in the United States and Canada starting next January 1. The provision is contained in a new basic agreement concluded with Actors Equity and will run until January 15, 1961. * * * Industrial shows have become an increasing source of employment for Equity performers. The union estimated that its members earned \$2 million last year in this field (which indicates the general economic impact of the show)" (New York Times, June 8, 1961, p. 40).

"An unsung hero during recent disturbances in Alabama is the Greyhound Corp. whose employees acted with quiet fortitude and good manners throughout the disturbances. * * * We learned from T. F. Hawthorne, vice president, that Greyhound's president, F. W. Ackerman, had issued a clear directive on January 11, 1961, ordering company implementation of the Supreme Court's decision in the *Boynton* case having to do with discrimination in terminal facilities. * * * Mr. Hawthorne confirmed our suspicion that most common carriers consider the 'separate but equal' rule as distasteful and expensive. We were not surprised, therefore, when we were assured that Greyhound is looking for business, and that to its cashier one dollar looks very much like any other. Aside from sound business sense, there is reason to believe—here we speak on the basis of sur-

miss—that Greyhound has a highly cultivated sense of tactics. On the day Negro and white 'freedom riders' were served for the first time in an unsegregated manner in a Montgomery bus depot, Negro waitresses 'just happened' to be on duty. Our esteem for that much maligned institution, the American private, 'strictly for profit' corporation, has gone up several notches." (The Nation, editorials, June 10, 1961, p. 490).

"Why major league sport has never invaded the South was graphically evidenced Wednesday as 19 professional football players, all Negroes, pondered telegrams sent by President Wilkerson of the Roanoke chapter of the NAAOP requesting them not to play in a National Football League exhibition game Saturday night in Roanoke, Va., because seats for the game were being sold in a segregated basis. * * * As a sidelight to this situation, where the South is clamoring for bigtime sports but still unable to put its racial house in order, Harry Wismer, president of the New York Titans of the young American Football League, told a Boston audience similar conditions blocked AFL expansion into Atlanta. 'They have solid backers, the money, and the populace to draw from in Atlanta,' Wismer explained, 'but they don't have a place to play. Until they build a new stadium they cannot be considered. Grant Field at Georgia Tech would be an ideal place to play, but there is a State law that no Negro can play on State property. The only other facility would be the old Crackers baseball park, but, then again, that only holds something like 14,000.' (Christian Science Monitor, Aug. 9, 1961, p. 5).

"Because the operators who leased the restaurant in the Norfolk & Western Railway Terminal in Lynchburg refused yesterday to guarantee service to all customers without discrimination, the railroad immediately announced that the restaurant was closed until the operator's lease is terminated. * * * The Norfolk & Western spokesman said the company has a policy, in accordance with law, that there shall be no discrimination against patrons in any of its passenger stations" (Washington Post, Oct. 19, 1961, p. 35).

"The National Association for the Advancement of Colored People has notified Atlanta hotels that it will hold its annual convention in Atlanta during the first week of July. This meeting will bring from 1,500 to 2,000 visitors—mostly Negroes—to the southern city. The NAACP's plans for holding the convention in the city are forcing hotelmen there to reconsider their traditional segregation practice. Pressure against hotel segregation has mounted in the past few years. The southern hotels are running into the segregation problem at a time when they are competing more fiercely than ever for convention business, which amounts to better than \$1 billion a year around the country * * *. Some hotelmen feel they could boost their convention income substantially by accepting Negroes. William Hendricks, sales director of the Hotel Peabody in Memphis, said, 'I could sell half a million dollars worth of business this afternoon if we rented to Negroes.'

"Although the Atlanta hotels are afraid of losing some of their white patronage, an estimated 70 percent of it from their own State as well as other Southern States by altering segregation policies, they also face community pressures for desegregation because Atlanta, like many other southern cities, has desegregated its buses, some restaurants, and many civic facilities, and is trying to gain a reputation as moderate community able to solve its problems.

"Other city groups find that segregation conflicts with things they want. Atlanta has obtained a much sought after International League baseball franchise. Pressure not to segregate Negro from white players in Atlanta hotels may be a decisive element in resolving this crisis" (Business Week, Apr. 7, 1962, p. 128).

"Events throughout the South are making clear that the Negro fight against segregation means trouble for businessmen in widening areas.

"Negro pressure continues on downtown stores in Albany, Ga., where the local bus company quit after Negroes stopped riding it.

"Nowhere are current trends better revealed than in Birmingham, Ala., where retail merchants have felt the most direct blows. Led by Mills College students, the Negroes, who constitute a third of the city population and usually buy heavily downtown, have effectively boycotted downtown stores to support various demands for desegregation. Store observers began to report their absence in mid-March. Although sales were up earlier in the year, Easter sale averaged 12 percent below last year as Negro trade fell as much as 60 percent according to estimates of some stores. The merchants seem to be caught in a struggle that goes beyond them between the Negroes who are ambitious for their civil

rights and the politically ambitious city officials who more closely reflect, the hardened attitude of Birmingham's majority segregationist population than that of the merchants and moderates outside city limits" (Business Week, May 12, 1962, pp. 180-1).

"Harold Taylor, former president of Sarah Lawrence College, said yesterday that ridding America of educational slums will produce more scientists and technicians for the space age than programs aimed at increased education for the superior student . . . The United States feels pressured by increased competition from the Soviet Union to strengthen national security, Taylor explained. Consequently, the Nation emphasizes special treatment for the scientifically gifted student. Rather, the Nation's educational planning should tackle 'the bigger question of how to correct the social and economic conditions that stunt children's intellectual growth in the first place,' he said. By channeling 'massive amounts' of Federal aid into public and private schools, the United States will uncover many future scientists and technicians otherwise hidden in city slums and Negro ghettos in the Southern States, Taylor declared" (Washington Post, May 24, 1962, p. B-10).

"The American Legion's plans to hold this year's convention in New Orleans were canceled today because of Louisiana Legion members' inability to guarantee unsegregated facilities for delegates. The convention is scheduled for the week September 6-12" (Washington Post, Apr. 7, p. A-26, May 21, 1963, p. A-6).

"Three thousand and sixteen accredited delegates among 59 delegations attended the Legion's 44th National Convention in Las Vegas, Nev. (The American Legion, December 1962, p. 29). The Legion is said to draw 40,000 or more people to its conventions" (Business Week, May 14, 1960, p. 160).

"Most southern businessmen questioned by the Wall Street Journal reported that they experienced no grave dislocations from integration, and they left no doubt desegregation of commercial facilities has been less painful than expected. Among those restaurants, hotels, theaters, and other places of public accommodation in the South that have begun serving or hiring Negroes, only a few report suffering any lasting economic consequences. A sizable number, in fact, declare that business has been better than ever.

" . . . In Dallas, integration of hotels and restaurants has 'opened up an entirely new area of convention prospects,' according to Ray Bannison, convention manager of the chamber of commerce. 'This year we've probably added \$8 to \$10 million of future bookings because we're integrated,' Mr. Bannison said.

"Within a day after 14 Atlanta hotels announced on June 18 they would begin accepting Negro guests who come to the city with conventions, the Atlanta Convention Bureau had nailed down three organizations for 1964 and 1965 meetings, a total of 3,000 delegates who otherwise would not have visited Atlanta. Walter Crawford, executive vice president of the convention bureau, said the hotels' decision opens up 'the remaining 40 percent of the convention market that we estimate we haven't even been able to talk to before'" (Wall Street Journal, July 15, 1963, pp. 1, 12).

ADAM F. BERLUTI.

APPENDIX VI

[Excerpt from the Congressional Record of May 25, 1961]

ACTIVITIES IN THE SOUTHERN STATES

Mr. EASTLAND. Mr. President—

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. SCOTT. Mr. President, will the Senator from Mississippi yield to me?

Mr. EASTLAND. I must ask the Senator from Pennsylvania to excuse me, for I have two speeches to make. Thereafter, I shall be glad to yield.

The PRESIDING OFFICER. The Senator from Mississippi declines to yield at this time.

Mr. EASTLAND. Mr. President, the agent provocateurs who have descended upon the Southern States in the name of "peace riders" were sent for the sole purpose of stirring up discord, strife, and violence. "Peace riders" is a revered Communist term, an old Communist technique. The movement was masterminded and directed by an organization known as the Congress of Racial Equality, called CORE. This organization is the war department of those who sell

hate, collect donations, and sow the seeds of discord in this country. Since its inception, its creed has been lawlessness and its tactics have followed the pattern set by Communist agitators the world over.

Prior to the sit-in demonstrations that started in the Southern States in 1960, CORE confined its activities to cities in the North and border States, and received little public notice. With the advent of the lawless sit-in, it moved in and took over the direction of the whole movement. Steve Allen signed a recent fundraising letter given wide circulation by CORE; and in it he said, in part:

"How did the sit-ins, first tried by CORE in 1942 and used every year since, suddenly become southwide? How do the students think of their movement? To give you a personal, firsthand understanding I am enclosing a copy of 'Sit-ins: The Students Report,' with a foreword by Lillian Smith and six student articles from representative movements across the South."

In my judgment, one of its objectives is to manufacture incidents, and thus raise money, from the dupes, for the international Communist conspiracy.

The booklet attached to the letter contains the maudlin stories of the student trespassers that were trained by CORE, and were arrested in various cities in the South when they violated the law by trespassing on private property. As Allen points out, the foreword of the pamphlet is written by Lillian Smith, the leading white southern integrationist, a member of the advisory committee of CORE, and the author of the most abominable book written in the 20th century, the miscegenation novel "Strange Fruit." Lillian Smith has also been associated with numerous organizations and activities cited as being Communist or Communist fronts.

I submit that when a person belongs to a large number of Communist-front organizations that follow the policies of the international Communist conspiracy, that person is aiding and abetting the Communist movement in the world—a movement which, if not halted, will result in a blood bath in our own country, because the United States will fight, if necessary, in order to prevent Communist domination of our country.

The "freedom ride" planned by CORE, and commenced in Washington on May 4, was the master effort of this organization. I have been informed that it was devised deliberately as a prelude to various high-level meetings in Europe, as a propaganda method to embarrass the Government of the United States in the handling of international affairs. Certainly those participating in the ride have been guilty of such practices of embarrassment, many times in the past.

Long before the bus reached Alabama, certain members thereon were involved in instances of violence. The Washington Evening Star of Monday, May 15, 1961, reports that at Rock Hill, S.C., two men were beaten, and that one of them was Albert Bigelow, 55, the former Navy captain who ran afoul of the law when he attempted to sail a ketch into the Pacific-Ocean Lucifer Testing Area, in 1958, to protest the nuclear bomb test. The same news story reports that a day later, at Winnsboro, S.C., one Thomas, a Howard University student, and James Peck, 47, of New York City, were charged with trespassing when they attempted to eat at a roadside restaurant. Strange as it may seem, this selfsame Peck was also aboard the ketch in the Pacific Ocean when it ran afoul of the law attempting to sail into the nuclear testing area in 1958. Peck was the first "hero" of the "freedom ride." He came back from Birmingham parading the bandages and stitches received in the altercation that took place at the bus station.

It must be admitted that this is the closest that Peck ever came to "warfare" of any kind. According to a recent news story in the New York Herald Tribune, in World War II, when Peck was called up in the draft, he declared himself a conscientious objector. Unlike most conscientious objectors at that time, he would not become a medic, nor would he agree to take part in other noncombat activities connected with the military. As a result, he spent 3 years in the Federal prison at Danbury, Conn. He first became associated with the Congress of Racial Equality in 1946.

The Herald Tribune's story reports that in 1949 Peck chained himself to a railing in the White House and staged a sitdown strike, which was ended by Secret Service agents.

Peck was arrested in Nevada in 1957, along with others, for trying to force their way through the gate of an Atomic Energy Commission proving ground, allegedly in the cause of pacifism.

The next year Peck was again under arrest, this time as a member of the crew of the ketch previously mentioned in the nuclear testing area of the Pacific.

There are strong indications that Peck was associated with the Committee for Nonviolent Action, which conducted demonstrations against the Polaris building shipyards of the Electric Boat Co. in Groton, Conn.

Mr. President, do I have to say more to show that this man, the leader of CORE, is disloyal to his country? Well, I am going to give more.

Back on August 31, 1947, Peck was arrested at Cliffside Park, N.J., and charged with disorderly conduct. In July and August of that year he was active in demonstrations charging racial discrimination at Palisades Park and Cliffside Park, N.J.

The Communist paper 'Peoples' World' of July 23, 1960, reports that a certain Jim Peck was scheduled to lead a 2-day conference of opponents of the death penalty in the Chessman case.

While the current letterheads of CORE do not carry the name of James Peck, reference to those used in 1950 indicate that his title was "editor" of a publication called Corelator, which was the official publication of this organization.

Mr. President, in my judgment, this man is a Communist agitator and organizer of the most dangerous kind.

CORE could not rely on "student trainees" for the master "freedom ride." Its core were its own agent provocateurs with the longest possible record of experience in activities inimical to the security and welfare of the United States.

Mr. President, it is incredible that the American people can be humbugged and deceived by an organization such as this.

I have another letter mailed by CORE on February 16, 1958. It describes what I mentioned at the outset in regard to CORE's original activities in northern and border cities in this language. It reads:

"In the cities where CORE has operated, advances toward integration have occurred. In recent years, the border cities, St. Louis and Baltimore, have seen dramatic CORE victories. The method works. When I first joined CORE's advisory committee years ago, I could not have foretold that the ratio of success to failure would be so high.

This letter is signed by one A. J. Muste, who is still active on the advisory committee of CORE. Who is A. J. Muste?

In 1937 A. J. Muste got up a delegation for the purpose of observing the procedures of the Communist Party's 16th National Convention on February 9 to 12. J. Edgar Hoover said:

"The Communists boasted of having impartial observers cover the convention. However, most of these so-called impartial observers were handpicked before the convention started and were reportedly headed by A. J. Muste, who has long fronted for Communists. * * * Muste's report on the convention was biased, as could be expected.

Those are the words of the great Director of the Federal Bureau of Investigation, Mr. J. Edgar Hoover. Who wants further proof of the Communist origin of this group that wants to plant discord in this country on the very eve of international conferences which mean so much to the welfare of future generations of Americans?

Muste has been connected or associated with no less than 32 Communist-front organizations or activities. A more complete story of his relation to banning nuclear weapons tests and his activities in relationship to the Communist conspiracy will be found in material which I shall ask to have printed in the Record. If the American people had to depend on pacifists like Peck and Muste for the defense and security of this country, there would be no country—only a Russian satellite.

Mr. President, in further examining the individuals who make up the advisory committee of the "War Department for Racial Agitation," we find a close interrelationship to the NAACP. Allen Knight Chalmers, longtime national treasurer and member of the board of directors of the NAACP, is on the advisory committee of CORE. A report of the House Un-American Activities Committee on Chalmers' connections with organizations or activities connected with the Communists conspiracy is included, and I ask unanimous consent that several inserts bearing on this subject may be made a part of the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EASTLAND. Mr. President, Dr. Algernon D. Black, longtime member of the national board of directors of the NAACP, is also a member of the advisory committee of CORE. Dr. Black's record, as revealed by the House Un-American Activities Committee, is replete with connections in organizations and activities connected with the Communist conspiracy. The long record of Dr. Algernon D. Black, is revealed by the records of the House Un-American Activities Committee.

Mr. President, I ask unanimous consent that this record be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi? The Chair hears none, and it is so ordered.

(See exhibit 2.)

Mr. EASTLAND. Mr. President, Earl B. Dickerson, onetime national vice president and a member of the national legal committee of the NAACP, is also listed as a member of the advisory committee of CORE. The long record of Earl Dickerson's affiliation with Communists or Communist-front activities is available from official sources. I ask unanimous consent that this record be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi? The Chair hears none, and it is so ordered.

(See exhibit 3.)

Mr. EASTLAND. Mr. President, A. Phillip Randolph, longtime vice president of the NAACP, is also a member of the advisory committee of CORE. Randolph's record, as revealed by the records of the House Un-American Activities Committee, is also available from official records. I ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi? The Chair hears none, and it is so ordered.

(See exhibit 4.)

Mr. EASTLAND. This list, Mr. President, is sufficient to illustrate the nature of the interlocking directorate and that the interlockers have also been connected with many organizations and groups other than CORE and the Communist movement.

Mr. President, it is interesting to compare the advisory committee of CORE as it existed in 1956 and its makeup in 1960 and 1961. As long as CORE was confining its activities to northern and border cities, it is a fair inference that certain classes of agitators were indifferent to its operation. When it moved into the South, Martin Luther King and Ralph Abernathy, the two preachers who have been in the forefront in agitating violence against the white people, joined hands with the masterminds of CORE in organizing the freedom riders and became members of CORE's advisory committee. One might say that Martin Luther King took over where CORE left off—or has CORE left off? At least King attempts to claim credit for the organization of parties for the subsequent buses.

Martin Luther King and Abernathy are one of a kind with the so-called Rev. Elton Cox, one of the original freedom riders. He is the person who, when arriving in New Orleans, called for "marry-ins—racial intermarriage—because love is colorblind anyway." Mr. President, no language on earth is more intended to incite and foment violence in Southern areas, or in any area, than is this.

James Peck held a press conference at the office of Charles S. Zimmerman, vice president of the International Ladies' Garment Workers Union, 218 West 40th Street, when he returned from Birmingham. Also present at that press conference was Henry Thomas, the 19-year-old Negro boy who was arrested with Peck at Wintboro, S.C., charged with trespassing when they attempted to eat at a roadside restaurant. Charles S. Zimmerman is a member of the advisory committee of CORE. The record of Charles Zimmerman's association with Communist-front activities will appear at a later point in my remarks.

Mr. President, I ask unanimous consent that the record be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi? The Chair hears none, and it is so ordered.

(See exhibit 5.)

Mr. EASTLAND. Mr. President, since CORE has started directing its operations into the southern areas of the United States, other leaders in organized labor have joined the directorate of CORE. Foremost among these is Walter P.

Reuther. Reuther has spent years trying to obtain respectability since those days in 1934 when he and his brother worked in an industrial plant in Russia. The words that they transmitted back to the United States in a letter which appeared in the August 14, 1948, issue of the Saturday Evening Post are well worth repeating today. The letter ended with the statement:

"Carry on the fight for a Soviet America."

Mr. President, that is what CORE is doing today. It is carrying on the fight for a Soviet America.

The portions of the letter as appearing in the Congressional Record of August 2, 1955, will be attached at the end of my remarks, along with a report of the House Un-American Activities Committee in regard to Reuther's association and affiliations with Communist or Communist-front activities in the United States.

Mr. President, I ask unanimous consent that the portions of the letter and the report be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi? The Chair hears none, and it is so ordered.

(See exhibit 6.)

Mr. EASTLAND. Mr. President, other members of the advisory committee of CORE who have been listed at one time or another as being connected with front organizations of various kinds and character are: Roger N. Baldwin, Lillian Smith, Ronald B. Gittelsohn, Ira DeA. Reid, and Goodwin Watson.

I ask unanimous consent, Mr. President, that the record of their association with Communist-front activities be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi? The Chair hears none, and it is so ordered.

(See exhibit 7.)

Mr. EASTLAND. Mr. President, is any further proof necessary to establish that the "freedom riders" have been sent into the South with the deliberate intent of fomenting and provoking violations of the laws of the States which they intended to visit and did visit? If these be pacifists, it is a tragic commentary on our times that the Governors of Alabama and Mississippi have to call out the 31st National Guard Division, members of which have been in the forefront in sacrificing their lives in the valiant defense of this country in Korea, in World War II and in World War I, to defend—and protect—these self-proclaimed pacifists from violence. No area on the face of the earth has more demonstrated its ability to maintain peace and domestic tranquility than the Southern States of our country. In spite of outside agitation, the harmonious relationship, the mutual affection that today exists there between the white and colored races is more marked than it is in any other area on the face of this earth where the black and white races live together.

Mr. President, the day has come when these agents provocateurs must be stopped.

The day has come, Mr. President, when the Communist movement must be stopped, and this is part of the Communist movement inside the United States.

Mr. President, I salute the Governor and the officials of my State for the prompt, efficient, and peaceful treatment that they extended to those riders who entered the State of Mississippi for the deliberate purpose of violating the laws of Mississippi and fomenting strife and discord.

I salute the people of Mississippi for their courage, their intelligence, and their patience. This is the first time they have come face to face with the worldwide Communist conspiracy. They have acted well.

I ask unanimous consent that certain documents bearing on the Communist record of people to whom I have referred be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi? The Chair hears none, and it is so ordered.

(See exhibit 8.)

EXHIBIT 1

ALLAN KNIGHT CHALMERS

FEBRUARY 13, 1956.

Subject: Allan Knight Chalmers, national treasurer, member of the board of directors, NAACP, 1954.

The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by, or findings of, this

committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

In connection with his public testimony on August 17 and 18, 1937, before the Special Committee on Un-American Activities, Mr. Walter S. Steele furnished additional information which was printed in the hearings following his testimony and from which the reference below is taken:

"A good example of one of the united fronts in the United States is the Scottsboro Defense Committee * * *. The national chairman of this committee is the Reverend Allan Knight Chalmers, head of the Church League for Industrial Democracy; member of the advisory board of the National Religion and Labor Foundation; executive committee of the War Registers League; sponsor of the Emergency Peace Campaign, and a member of the sponsoring committee for the testimonial dinner given in honor of Norman Thomas in 1930." (Public hearings, vol. 1, p. 628.)

Except for the Scottsboro Defense Committee, none of these organizations has been cited in any manner either by the Committee on Un-American Activities or the Attorney General of the United States. The Special Committee on Un-American Activities cited the Scottsboro Defense Committee as a Communist-front organization in reports of January 3, 1939 (p. 82), and March 29, 1944 (p. 177).

Rev. Allan Knight Chalmers was listed among the sponsors of the Greater New York Emergency Conference on Inalienable Rights in the program of that conference held February 12, 1940. The Special Committee on Un-American Activities cited the Greater New York Emergency Conference on Inalienable Rights as a Communist front which was succeeded by the National Federation for Constitutional Liberties (report of Mar. 29, 1944, pp. 90, 1029). The Committee on Un-American Activities cited it as being among a "maze of organizations" which were "spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law" (report of Sept. 2, 1947, p. 3).

A leaflet entitled "Protestantism Answers Hate" contains the name of Dr. Allan Knight Chalmers, Broadway Tabernacle, New York, in a list of sponsors of the call to a dinner forum in New York City, February 25, 1941, under auspices of Protestant Digest Associates. The Protestant Digest was cited by the special committee as "a magazine which has faithfully propagated the Communist Party line * * *." (Rept. 1311 of Mar. 29, 1944.)

EXHIBIT 2

ALGERNON D. BLACK

FEBRUARY 13, 1956.

Subject: Dr. Algernon D. Black, national board of directors, NAACP, 1934.

The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

Dr. Algernon D. Black was one of the sponsors of the Cultural and Scientific Conference for World Peace, arranged by the National Council of the Arts, Sciences and Professions, March 25-27, 1949 (conference program, p. 12, and conference call). The Daily Worker of February 21, 1949 (p. 2), announced that he was a member of the program committee of that conference. Speaking of peace, edited report of the conference, March 25, 26, 27, 1949, listed Algernon Black as a speaker on "A Warning Against Sectarian Prejudice," and gave biographical data concerning him (pp. 121, 139).

In 1948 and 1949, Dr. Black signed statements of the National Council of the Arts, Sciences, and Professions (Daily Worker, Dec. 20, 1948, p. 2; letterhead received in January 1949; New York Star of Jan. 4, 1949, p. 9, an advertisement). He spoke before the group in February 1949 (Daily Worker, Feb. 28, 1949, p. 2).

The Committee on Un-American Activities, in its Review of the Scientific and Cultural Conference for World Peace arranged by the National Council of the Arts, Sciences, and Professions and held in New York City on March 25, 26, and 27, 1949, April 28, 1950, cited the National Council of the Arts, Sciences, and Professions as a Communist-front organization. In this same report the Committee on Un-American Activities cited the scientific and cultural conference as actually a supermobilization of the inveterate wheelhorses and supporters of the Communist Party and its auxiliary organizations.

The call to a national conference on American policy in China and the Far East held in January 1948, included the name of Dr. Algernon Black in the list of sponsors (Call, January 23-25, 1948, New York City); the conference was called by the Committee for a Democratic Far Eastern Policy. In the December 1949-January 1950 issue of Far East Spotlight, which is the official organ of the Committee for a Democratic Far Eastern Policy, Dr. Black answered a questionnaire issued by that committee, favoring recognition of the Chinese Communist government.

The Attorney General of the United States cited the Committee for a Democratic Far Eastern Policy as a Communist organization in a letter furnished the Loyalty Review Board and released to the press by the United States Civil Service Commission April 27, 1949; redesignated April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list of organizations previously designated.

The Daily Worker of June 21, 1948, reported that Algernon D. Black had signed a statement of the National Council of American-Soviet Friendship, calling for a conference with the Soviet Union; he signed an appeal of the same organization to the United States Government to end the cold war and arrange a conference with the Soviet Union (leaflet entitled "End the Cold War—Get Together for Peace" which was dated December 1948); he signed a statement in praise of Henry Wallace's open letter to Stalin (May 1948), as shown in the pamphlet How To End the Cold War and Build the Peace (p. 9), prepared and released by the National Council of American-Soviet Friendship.

The Attorney General cited the National Council of American-Soviet Friendship as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Special Committee on Un-American Activities, in its report of March 20, 1944 (p. 156), cited the National Council of American-Soviet Friendship as "in recent months, the Communist Party's principal front for all things Russian."

Dr. Black contributed an article to the pamphlet We Hold These Truths (p. 22), which was issued by the League of American Writers. He was named as a member of the executive committee of Film Audiences for Democracy in the June 1939 issue of Film Survey, official organ of Film Audiences, cited as a Communist-front organization by the Special Committee on Un-American Activities (Rept. 1311, Mar. 29, 1944, p. 150).

The Attorney General cited the League of American Writers as subversive and Communist in letters furnished the Loyalty Review Board and released to the press by the U.S. Civil Service Commission June 1 and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The organization was cited previously by the Attorney General as "founded under Communist auspices in 1935 . . . in 1939 . . . began openly to follow the Communist Party line as dictated by the foreign policy of the Soviet Union." (Congressional Record, Sept. 24, 1942, pp. 7685 and 7686.) The Special Committee on Un-American Activities, in its reports of January 3, 1940 (p. 9), June 25, 1942 (p. 10), and March 29, 1944 (p. 48), cited the League of American Writers as a Communist front organization.

A letterhead of the nonpartisan committee for the reelection of Congressman Vito Marcantonio, dated October 3, 1936, listed the name of Algernon D. Black as a member of that committee. The Special Committee on Un-American Activities, in its report dated March 29, 1944 (p. 122), cited the nonpartisan committee for the reelection of Vito Marcantonio as a Communist-front organization.

Algernon Black was a member of the advisory board of the American Student Union, as shown in a pamphlet entitled "Presenting the American Student Union." The Special Committee on Un-American Activities, in its report dated January 3, 1939 (p. 80), cited the American Student Union as a Communist-front organization.

A letterhead of the Veterans Against Discrimination of Civil Rights Congress of New York, dated May 11, 1946, listed the name of Algernon Black as one of the public sponsors of that organization. The Attorney General cited the Veterans Against Discrimination of Civil Rights Congress of New York as subversive in a letter released December 4, 1947; included on the April 1, 1954, consolidated list.

Mr. Black signed an open letter of the National Federation for Constitutional Liberties, as shown in the booklet 600 Prominent Americans (p. 16). The Attorney General cited the National Federation as subversive and Communist in letters

released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Attorney General cited the organization previously as "part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program." The Special Committee on Un-American Activities, in its report dated March 29, 1944 (p. 50), cited the National Federation for Constitutional Liberties as "one of the viciously subversive organizations of the Communist Party." The Committee on Un-American Activities, in its report of September 2, 1947 (p. 8), cited the National Federation as among a "maze of organizations" which were "spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law."

The printed program of the Greater New York Emergency Conference on Inalienable Rights, February 12, 1940, reveals the name of Algernon D. Black as vice chairman of the group. A letterhead of the American Russian Institute, received July 26, 1940, contains the name of Dr. Black as a member of the inter-church committee of that institute. The Special Committee on Un-American Activities, in its report dated March 29, 1944 (pp. 98 and 129), cited the Greater New York Emergency Conference on Inalienable Rights as a Communist-front organization. The Attorney General cited the American Russian Institute as a Communist Organization in a letter released April 27, 1949; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list.

Dr. Black was a member of the American Friends of Spanish Democracy (letterheads dated March 13, 1931, and February 21, 1938); and described as a representative individual in a booklet entitled "These American Say" which was published by the Coordinating Committee To Lift the (Spanish) Embargo. The Special Committee on Un-American Activities, in its report dated March 29, 1944 (p. 82), cited the American Friends of Spanish Democracy as a Communist-front organization. The Coordinating Committee To Lift the (Spanish) Embargo was cited by the Special Committee on Un-American Activities in its report dated March 29, 1944 (pp. 137 and 138), as one of a number of front organizations set up during the Spanish civil war by the Communist Party in the United States and through which the party carried on a great deal of agitation.

In a pamphlet entitled "News You Don't Get" (dated November 15, 1953), Algernon Black was named as one of those who signed the call to a Conference on Pan-American Democracy; a letterhead of the organization dated November 18, 1938, named him as one of the sponsors of the conference. The Attorney General cited the Conference on Pan-American Democracy as subversive and Communist in letters released June 1 and September 21, 1948; redesignated April 27, 1953, pursuant to Executive Order No. 10450. The Special Committee on Un-American Activities, in its report dated March 29, 1944 (pp. 161 and 164), cited the Conference on Pan-American Democracy as a Communist-front organization.

Algernon Black signed a declaration of the Reichstag Fire Trial Anniversary Committee honoring Dimitrov, as shown in the New York Times of December 22, 1943 (p. 40). The Special Committee on Un-American Activities, in its report of March 29, 1944 (pp. 112 and 156), cited the Reichstag Fire Trial Anniversary Committee as a Communist-front organization.

Dr. Black signed an open letter in defense of Harry Bridges. (See Daily Worker of July 19, 1942, p. 4.) Letterheads of the Citizens Victory Committee for Harry Bridges dated June 8, 1943, and January 10, 1944, listed Algernon Black as a committee member or sponsor of that group. The open letter in defense of Harry Bridges was cited as a Communist-front organization by the Special Committee on Un-American Activities in its report of March 29, 1944 (pp. 87, 112, 129, 160). The Citizens' Committee for Harry Bridges was cited as Communist by the Attorney General in a letter released April 27, 1949; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Special Committee on Un-American Activities, in its report of March 29, 1944 (pp. 90 and 94), cited the Citizens' Committee for Harry Bridges as a Communist-front organization.

The Daily Worker of March 29, 1951 (p. 9), reported that Dr. Algernon D. Black signed a letter of the American Committee for Protection of Foreign Born attacking the McCarran Act. Algernon D. Black was shown as a sponsor of the American Committee for Protection of Foreign Born in the Daily Worker, April 4, 1951 (p. 8), a leaflet: "Call—Mass Meeting and Conference," October 27, 1951, Dearborn, Mich., and a photostatic copy of an undated letterhead of the 20th anniversary national conference * * *, U. E. Hall, Chicago, Ill. (December

8-9, 1951). The Daily Worker of August 10, 1950 (p. 5), reported that Dr. Algernon Black signed a statement of the American Committee against denaturalization.

The Attorney General cited the American Committee for Protection of Foreign Born as subversive and Communist in letter released June 1 and September 21, 1948; redesignated April, 27, 1953, and included on the April 1, 1954, consolidated list. The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 155), cited the American Committee for Protection of Foreign Born as "one of the oldest auxiliaries of the Communist Party in the United States."

On June 13, 1949, the Daily Worker reported that Dr. Black was one of the sponsors of an organization formed to oppose the Mundt-Nixon anti-Communist bill; a press release of the National Committee to Defeat the Mundt Bill, dated June 15, 1949, revealed the same information. The Committee on Un-American Activities, in its report on the National Committee to Defeat the Mundt Bill, dated January 2, 1951, cited that organization as "a registered lobbying organization which has carried out the objectives of the Communist Party in its fight against antislavery legislation."

A letterhead of the Voice of Freedom Committee dated June 16, 1947, listed Algernon D. Black as a sponsor of that organization. An invitation to a dinner held under auspices of the group, January 21, 1948, listed him as a member of the dinner committee. He signed a petition of the organization as shown by a leaflet published by the Voice of Freedom Committee. The Attorney General included the Voice of Freedom Committee on his April 1, 1954, consolidated list of organizations previously designated.

Algernon D. Black, New York Ethical Culture Society, signed an open letter of the Conference on Peaceful Alternatives to the Atlantic Pact to Senators and Congressmen urging defeat of President Truman's arms program, as shown by a letterhead dated August 21, 1949.

The Committee on Un-American Activities, in its report on the Communist peace offensive, April 1, 1951 (p. 56), cited the Conference for Peaceful Alternatives to the Atlantic Pact as a meeting called by the Daily Worker in July 1949, to be held in Washington, D.C., and as having been instigated by Communists in the United States (who) did their part in the Moscow campaign.

The Daily Worker of December 10, 1952 (p. 4), listed Dr. Algernon D. Black as a signer of an appeal to President Truman requesting amnesty for leaders of the Communist Party convicted under the Smith Act.

EXHIBIT 8

EARL B. DICKERSON

FEBRUARY 13, 1956.

Subject: Earl B. Dickerson, national board of directors, national legal committee, NAACP, 1954.

The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

According to the Daily Worker of February 28, 1949 (p. 9), Earl Dickerson, attorney, Illinois, was one of the signers of a statement defending the 12 Communist leaders. He signed a statement in behalf of the attorneys in the Communist cases as shown by the July 31, 1950, issue of the Daily Worker (p. 9). This same information was shown in the February 1, 1950, issue of the Daily Worker (p. 3). As shown by the Daily People's World of May 12, 1950 (p. 12), Earl B. Dickerson was a signer of a statement to the United Nations in behalf of the Communist cases.

Earl B. Dickerson protested approval of the Smith Act by the Supreme Court as "having a disastrous impact upon . . . struggle of Negro people" (Daily Worker, October 1, 1951, p. 1). He filed a petition with the clerk of the U.S. Supreme Court supporting the pending application for a hearing on the constitutionality of the Smith Act as shown by the Daily Worker, October 4, 1951 (p. 15). Mr. Dickerson was identified in this source as a Negro attorney in Illinois. He spoke against the Smith Act according to the February 12, 1952, issue of the Daily People's World (p. 8), and was coauthor of a memorandum to the Supreme Court "on the menace of the Smith Act to the Negro people"

(Daily People's World, July 15, 1952, p. 1). Earl B. Dickerson, president, National Lawyers Guild, Chicago, was a signer of an appeal to President Truman requesting amnesty for leaders of the Communist Party convicted under the Smith Act (Daily Worker, December 10, 1952, p. 4). As shown by the Daily Worker, December 29, 1953 (p. 8) and the Worker January 3, 1954 (p. 6), Earl B. Dickerson was one of 39 prominent Midwest citizens staging a plea for Christmas amnesty for Communist leaders convicted under the Smith Act, which was wired to President Eisenhower. He was one of the initiators of an appeal for reduced bail for Claude Lightfoot, Illinois Communist leader, indicted under a section of the Smith Act, as shown by the September 12, 1954, issue of the Worker (p. 10).

According to the December 25, 1952, issue of the Daily Worker (p. 8), Earl B. Dickerson was a signer of an open letter to President Truman asking clemency for the Rosenbergs. The Daily People's World of March 13, 1953 (p. 3), reported that Earl B. Dickerson contributed a statement to the pamphlet, "The Negro People Speak Out on the Rosenbergs," distributed by volunteers for the East Bay Committee To Save the Rosenbergs, Oakland, Calif.

Earl B. Dickerson was a signer of an appeal to the Greek Government protesting the court-martial of Greek maritime unionists as shown by the Daily Worker, August 10, 1952 (p. 1).

Earl B. Dickerson was listed in the spring 1943 (p. 22) and fall session 1943 (p. 27) catalogs of the Abraham Lincoln School as a member of the board of directors. He was named in the same source as a guest lecturer at the school (p. 10).

The Attorney General of the United States cited the Abraham Lincoln School as an adjunct of the Communist Party in a letter to the Loyalty Review Board, released December 4, 1947. The Attorney General redesignated the school April 27, 1953, pursuant to Executive Order No. 10450, and included it on the April 1, 1954, consolidated list of organizations previously designated. The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 82), cited the Abraham Lincoln School as successor of the Workers School as a Communist educational medium in Chicago.

A pamphlet entitled "For a New Africa" (containing the proceedings of the conference on Africa, New York, April 14, 1944) names Earl B. Dickerson as a member of the National Negro Congress.

The National Negro Congress was cited as subversive and Communist by the Attorney General in letters released December 4, 1957, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The organization was cited previously by the Attorney General as a Communist-front group (Congressional Record, Sept. 24, 1942, pp. 7687 and 7688). The Special Committee on Un-American Activities, in its report of January 3, 1939 (p. 81), cited the National Negro Congress as "the Communist-front movement in the United States among Negroes."

He was a member of the Council on African Affairs, as shown in a pamphlet entitled "8 Million Demand Freedom," and the pamphlet For a New Africa (p. 36). Earl B. Dickerson is listed as a member of the Council on African Affairs in a leaflet, issued by the organization, The Job To Be Done, a leaflet entitled "What of Africa's Place in Tomorrow's World?" a pamphlet entitled "Seeing Is Believing" (1947), and a letterhead of the group, dated May 17, 1945, and a pamphlet, Africa in the War.

The Attorney General cited the Council on African Affairs as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list.

The name of Earl Dickerson, of 35 South Dearborn Street, Chicago, Ill., appears on a 1939 membership list of the National Lawyers' Guild on file with this committee. In 1940 he was president of the Chicago chapter of the guild and chairman at a meeting on anti-Communist legislation, as shown in the Daily Worker of March 15, 1949 (p. 6); in the same year he attacked the Marshall plan as shown in the Daily Worker of July 19, 1949 (p. 5), in which source he was identified as president of the Chicago chapter of the guild; he participated in a discussion entitled "Status of Civil Liberties," fifth annual convention, National Lawyers' Guild, Book-Cadillac Hotel, Detroit, Mich., May 20-June 1, 1941, as shown by the convention program printed in Convention News, May 1941 (p. 2), published by the guild. This same Convention News (pp. 3 and 4) listed him as a member of the convention nominations committee of the fifth national convention of the National Lawyers' Guild. He sub-

mitted a report of the guild, denouncing lynching and discrimination, as shown in the *Daily Worker*, November 30, 1942 (p. 1). As shown by the October 16, 1951, issue of the *Daily Worker* (p. 1), Earl B. Dickerson was president of the Chicago chapter of the National Lawyers' Guild; he spoke at the national convention of the organization in Chicago. The October 18, 1951, issue of the *Daily People's World* (p. 2), reported that Earl B. Dickerson was elected president of the National Lawyers' Guild. He was shown as president of the National Lawyers' Guild in the *Daily Worker*, January 25, 1952 (p. 1), and February 20, 1953 (p. 6), and the *Daily People's World*, January 25, 1952 (p. 8). The January 18, 1952, issue of the *Daily People's World* (p. 3) reported that Earl B. Dickerson was to speak on the Smith Act, the Constitution, and You, at a gathering of the San Francisco chapter of the National Lawyers' Guild on February 1, 1952. The *Daily Worker* of February 24, 1953 (p. 8), reported that Earl Dickerson, president on the National Lawyers' Guild, addressed the annual convention of the group held February 20-23, at the Park-Sheraton Hotel, New York City, and stated that "a new foreign policy is needed if the drive against liberties is to be halted." The *Daily People's World* of July 6, 1953 (p. 3), announced that he was to be honored by the Los Angeles-Hollywood chapter of the National Lawyers' Guild at a luncheon. The *Daily Worker* of August 28, 1953 (p. 2), reported that Earl B. Dickerson, president of the National Lawyers' Guild, issued a statement opposing the American Bar Association's call for disbarment of Communist lawyers. As shown by the September 6, 1953, issue of the *Worker* (p. 6), Earl Dickerson protested the placing of the National Lawyers' Guild on the list of subversive organizations by the Attorney General.

The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 149), cited the National Lawyers' Guild as a Communist-front organization. The Committee on Un-American Activities, in its report on the National Lawyers' Guild, September 17, 1950, cited the group as a Communist front which "is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions" and which "since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents."

One Earl Dickerson (with no middle initial shown) spoke at the morning session of the Congress on Civil Rights which was held in Detroit, Mich., April 27-28, 1946, as shown in the program, Congress on Civil Rights (p. 1): Earl B. Dickerson signed a statement of the Civil Rights Congress which was in defense of Gerhart Elser, according to the *Daily Worker* of February 28, 1947 (p. 2); he was one of the sponsors of the National Emergency Conference for Civil Rights which was held in New York City on July 19, 1948, according to the *Daily Worker* of July 12, 1948 (p. 4); a photostat of a letterhead of the Civil Rights Congress, Illinois, dated December 18, 1948, listed Earl Dickerson as a sponsor. As shown by the *Daily Worker* of November 1, 1950 (p. 4), Earl B. Dickerson was a sponsor of the Civil Rights Congress. A handbill, Dodge Local 3 Supports FEPO Rally, listed Earl B. Dickerson as one of those who would speak at a rally to be held under partial auspices of the Civil Rights Congress of Michigan on April 16, 1950.

The Attorney General cited the Civil Rights Congress as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Committee on Un-American Activities, in its report of September 2, 1947 (pp. 2 and 10), cited the Civil Rights Congress as an organization formed in April 1946 as a merger of two other Communist-front organizations (International Labor Defense and the National Federation for Constitutional Liberties); "dedicated not to be the broader issues on civil liberties, but specifically to the defense of individual Communists and the Communist Party" and "controlled by individuals who are either members of the Communist Party or openly loyal to it."

According to the printed program of the Cultural and Scientific Conference for World Peace (p. 14), Earl B. Dickerson was one of the sponsors of this conference which was held in New York City, March 27-28, 1949, under the auspices of the National Council of the Arts, Sciences, and Professions; he signed a statement of the council which was reprinted in the Congressional Record of July 14, 1949 (p. 9620). Earl B. Dickerson was a signer of a Resolution Against Atomic Weapons as shown by a mimeographed list of signers attached to a letterhead of the National Council of the Arts, Sciences, and Professions dated July 28, 1950. Mr. Dickerson signed a statement to the American people, "We uphold the right of all citizens to speak for peace," released by the National Council

of the Arts, Sciences, and Professions, as shown by the handbill, "Halt the Defamers Who Call Peace Un-American." He spoke at a conference on equal rights for Negroes in the arts held by the New York Council of the National Council of the Arts, New York City, November 10, 1951, according to the November 7, 1951 (p. 3), and November 14, 1951 (p. 7), issues of the Daily Worker. The Daily Worker of June 2, 1952 (p. 3), listed Earl B. Dickerson as one of the endorsers of the national council resolution calling for a hearing of Tunisia's demands in the United Nations. He spoke at a conference for equal rights for Negroes in the arts, sciences, and professions held by the Southern California Council of the Arts, Sciences, and Professions, on June 14, 1952, in Los Angeles (Daily Worker, June 20, 1952, p. 7).

The Committee on Un-American Activities, in its Review of the Scientific and Cultural Conference for World Peace, April 19, 1949 (p. 2), cited the National Council of the Arts, Sciences, and Professions as a Communist-front organization. In this same report the committee cited the Scientific and Cultural Conference for World Peace as a Communist front which "was actually a super-mobilization of the inveterate wheelhorses and supporters of the Communist Party and its auxiliary organizations."

Earl B. Dickerson was a national sponsor of the Spanish Refugee Appeal of the Joint Anti-Fascist Refugee Committee, as shown by letterheads of the group dated February 20, 1948, February 3, 1948, May 18, 1951, and January 5, 1953. He signed an open letter of the organization to President Truman on Franco Spain as shown by a letterhead and mimeographed letter of April 28, 1949. He signed a petition of the Spanish Refugee Appeal of the Joint Anti-Fascist Refugee Committee to President Truman "to bar military aid to or alliance with Fascist Spain" as shown by a mimeographed petition, attached to a letterhead of the group dated May 18, 1951.

The Attorney General cited the Joint Anti-Fascist Refugee Committee as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 174), cited the Joint Anti-Fascist Refugee Committee as a Communist-front organization.

Mr. Dickerson was chairman of the Illinois Legislative and Defense Committee of the International Labor Defense, as shown in Equal Justice, September 1939 (p. 3). He spoke before the International Labor Defense, together with Earl Browder, according to the Daily Worker of October 1, 1942 (p. 5); October 6, 1942 (p. 5); and October 11, 1942 (p. 3). The pamphlet, Victory in Oklahoma, October 1943, back cover, listed Earl B. Dickerson as a member of the National Committee of the International Labor Defense.

The Attorney General cited the International Labor Defense as subversive and Communist in letters released June 1, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The organization was cited previously by the Attorney General as the "legal arm of the Communist Party." (Congressional Record, Sept. 24, 1942, p. 7687). The Committee on Un-American Activities, in its report of September 2, 1947 (pp. 1 and 2), cited the International Labor Defense as "part of an international network of organizations for the defense of Communist lawbreakers."

Earl B. Dickerson was a speaker at the Conference on Constitutional Liberties, the founding conference of the National Federation for Constitutional Liberties, as shown in the printed program, Call to a Conference, page 2, June 7, 1940.

The Attorney General cited the Conference on Constitutional Liberties in America as a conference as a result of which was established the National Federation for Constitutional Liberties, "part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program" (Congressional Record, Sept. 24, 1942, p. 7687). The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 102), cited the conference as "an important part of the solar system of the Communist Party's front organizations."

The program and call to a national conference of the American Committee for Protection of Foreign Born, held in Cleveland, Ohio, October 25 and 26, 1947, listed Earl B. Dickerson as one of the sponsors of the conference; he was one of the sponsors of the sixth national conference, which was held in Cleveland, May 9 and 10, 1942, as shown in a leaflet of the conference, page 4. In the latter source, Mr. Dickerson was identified as a member of the President's Committee on Fair Employment Practices. Earl Dickerson was a sponsor of the American

Committee for Protection of Foreign Born as shown by a 1950 letterhead, an undated letterhead (received for files, July 11, 1950), an undated letterhead (distributing a speech of Abner Green at the conference of the American Committee for Protection of the Foreign Born of Dec. 2-3, 1950), and a letterhead of the Midwest Committee for Protection of Foreign Born (Apr. 30, 1951). Mr. Dickerson, identified as president of the Chicago Urban League, was a sponsor of a dinner given by the Midwest Committee for the Protection of Foreign Born for Pearl Hart (Daily Worker, Apr. 6, 1950, p. 4). A letterhead of the sixth annual conference of the Midwest Committee for the Protection of the Foreign Born dated May 16, 1954, Chicago, listed Earl B. Dickerson as a sponsor.

The Attorney General cited the American Committee for Protection of Foreign Born as subversive and Communist in letters released June 1 and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Special Committee on Un-American Activities in its report of March 29, 1944 (p. 155), cited the American Committee for Protection of Foreign Born dated May 16, 1954, Chicago, listed Earl B. Dickerson as a sponsor. United States."

In 1942 Earl B. Dickerson was a patron of the Congress of American-Soviet Friendship, as shown on a letterhead of the congress dated October 27, 1942; he was named in Soviet Russia Today (December 1942 issue, p. 42) as one of the sponsors of the Congress of American-Soviet Friendship; the call to the Congress of American-Soviet Friendship, November 6-8, 1943, listed Earl B. Dickerson among the sponsors. He signed a statement of the National Council of American-Soviet Friendship, praising Wallace's open letter to Stalin, May 1948, as shown in a pamphlet, How To End the Cold War and Build the Peace, page 9. He was identified in the last-named source as an attorney at law, Chicago. A photostatic copy of a letterhead of the Chicago Council of American-Soviet Friendship dated September 17, 1951, listed Earl B. Dickerson as a sponsor of that group. A photostat of a letter of the national council dated March 10, 1952, listed Mr. Dickerson as a sponsor.

The Attorney General cited the National Council of American-Soviet Friendship as subversive and Communist in letters released December 4, 1947, and September 21, 1948 redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 156), cited the national council as "in recent months, the Communist Party's principal front for all things Russian."

The Daily Worker of October 21, 1942 (p. 1), named Earl B. Dickerson among the list of members of the National Emergency Committee To Stop Lynching. He signed an appeal to lift the Spanish embargo, which appeal was made by the Negro People's Committee To Aid Spanish Democracy, according to the Daily Worker of February 8, 1939 (p. 2). He contributed to the June 22, 1943, issue of New Masses (p. 9). He signed a petition of the Citizens' Committee To Free Earl Browder, as shown in an official leaflet of the organization.

The National Emergency Committee To Stop Lynching was cited by the Special Committee on Un-American Activities as a Negro Communist-front organization, whose secretary was Ferdinand C. Smith, high in the circles of the Communist Party (report, Mar. 29, 1944, p. 180).

The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 180), cited the Negro People's Committee To Aid Spanish Democracy as a Communist-front organization.

New Masses was cited as a Communist periodical by the Attorney General (Congressional Record, Sept. 24, 1942, p. 7688), and the Special Committee on Un-American Activities (report, Mar. 1955, pp. 48 and 75).

The Citizens' Committee To Free Earl Browder was cited as Communist by the Attorney General in a letter dated April 27, 1949; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The organization was cited previously by the Attorney General as a Communist organization (Congressional Record, Sept. 24, 1942, p. 7687). The Special Committee on Un-American Activities in its report of March 29, 1944 (pp. 6 and 55), cited the Citizens' Committee To Free Earl Browder as follows: When Earl Browder (then general secretary, Communist Party) was in Atlanta Penitentiary serving a sentence involving his fraudulent passports, the Communist Party's front which agitated for his release was known as the Citizens' Committee To Free Earl Browder.

An open letter demanding discharge of Communist Party defendants in Fulton and Livingston Counties contained the name of Earl B. Dickerson in the list of persons who signed according to the Daily Worker of September 24, 1940, page 5.

He was attorney for Eugene Dennis, general secretary, Communist Party, as shown in the Daily Worker of November 19, 1947, page 7, being identified in this source as a former member of the city council, Chicago. Reference to Earl Dickerson as attorney for Eugene Dennis appears in the Worker, November 30, 1947, page 4; the Daily Worker of January 15, 1948, page 5; and the Daily Worker of October 27, 1948, page 10, in which source he is identified as a Negro leader, of Chicago.

Earl B. Dickerson was a sponsor of the American Peace Crusade, Illinois assembly, as shown by a letterhead dated April 12, 1951, the Illinois Peace Crusade, May 1951 (p. 4), and a photostat of a letterhead dated June 21, 1952. He was a sponsor of the American People's Congress and Exposition for Peace, held by the American Peace Crusade in Chicago, Ill., June 29, 30, and July 1, 1951, as shown by a leaflet. An invitation to American Labor To Participate in a Peace Congress, the Call to the American People's Congress, and the leaflet, American People's Congress * * * Invite You To Participate in a National Peace Competition, June 29, 1951, Chicago, Ill. He was a sponsor of a contest held by the American Peace Crusade for songs, essays, and paintings advancing the theme of world peace as reported in the Daily Worker, May 1, 1951 (p. 11).

The Attorney General included the American Peace Crusade on his January 22, 1954, list of organizations designated pursuant to Executive Order No. 10450, and on the April 1, 1954, consolidated list. The Committee on Un-American Activities, in its statement issued on the March of Treason, February 19, 1951, and report on the Communist Peace Offensive April 1, 1951 (p. 31), cited the American Peace Crusade as an organization which the Communists established as a new instrument for their peace offensive in the United States and which was heralded by the Daily Worker with the usual bold headlines reserved for projects in line with the Communist objectives.

Masses and Mainstream for February 1952 (pp. 52-56) listed Earl B. Dickerson as coauthor of an amicus curiae brief to the Supreme Court supporting an appeal for rehearing of its decision upholding the Smith Act, dated September 27, 1951.

According to the April 30, 1950, issue, of the Worker (p. 15), Earl B. Dickerson was a sponsor of the Midcentury Conference for Peace, cited by the Committee on Un-American Activities at a meeting held in Chicago, May 29 and 30, 1950, by the Committee for Peaceful Alternatives to the Atlantic Pact and as having been "aimed at assembling as many gullible persons as possible under Communist direction and turning them into a vast soundingboard for Communist propaganda" (report on Communist peace offensive, April 1, 1951, p. 58).

Earl B. Dickerson was a sponsor of the National Committee To Defeat the Mundt Bill as shown by the pamphlet, Hey, Brother, There's a Law Against You (p. 2); a release of June 15, 1949 (p. 2), and a photostat of a letterhead dated May 5, 1950. He signed a statement of the organization according to the Daily Worker of April 3, 1950 (p. 4).

The Committee on Un-American Activities, in its report on the National Committee To Defeat the Mundt Bill, December 7, 1950, cited the organization as "a registered lobbying organization which has carried out the objectives of the Communist Party in its fight against antisubversive legislation."

Earl B. Dickerson signed a letter defending the 12 Communist leaders, as shown on a letterhead, dated January 7, 1949; he later signed a statement asking for the release of the Communist leaders, as shown in the Daily Worker of November 8, 1949 (p. 6). He signed a brief on behalf of the attorneys who represented the Communist leaders, as shown in the Daily Worker of November 2, 1949 (p. 2); he signed a statement on behalf of the attorneys, as shown in the Daily Worker of December 7, 1949 (p. 5); he represented the attorneys, who represented the 11 Communist leaders, according to the Daily Worker of January 24, 1950 (p. 3).

EXHIBIT 4

FEBRUARY 13, 1956.

A. PHILIP RANDOLPH

Subject: A. Philip Randolph, national vice president, NAACP, 1954.

The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Commu-

nist, a Communist sympathizer, or a fellow traveler unless otherwise indicated. The Daily Worker of September 12, 1950 (p. 2), reported that A. Phillip Randolph, president, AFL Brotherhood of Sleeping Car Porters, opposed the jailing of the Communist leaders.

The Attorney General of the United States reported that A. Phillip Randolph, president of the National Negro Congress, refused to run in April 1940 "on the ground that it was 'deliberately packed with Communists and Congress of Industrial Organizations members who were either Communists or sympathizers with Communists'" (Congressional Record, September 24, 1942, pp. 7687 and 7688).

Walter S. Steele, in testimony in public hearings, Committee on Un-American Activities, July 21, 1947 (p. 92), referred to A. Phillip Randolph as follows:

"A. Phillip Randolph, one-time president of the National Negro Congress resigned his position because of the Communist control thereof. At the time of his resignation, at a meeting held in Washington, D.C., he charged that the congress was controlled by the Communist Party, through which he found it was chiefly financed."

George K. Hunton testified in public hearings, Committee on Un-American Activities, July 13, 1949 (p. 451), concerning the Communist infiltration of the National Negro Congress with reference to A. Phillip Randolph as follows:

"In the National Negro Congress they did make progress. That was a sound, constructive organization started about 10 years ago. It was a good organization, with a sound, constructive program, and the Commies moved in, and within a year and a half the white Communist members completely outnumbered the Negro members and took over. Be it said to his credit that the then president, A. Phillip Randolph, roundly denounced them and then resigned, and said no longer would the National Negro Congress represent the feeling of the Negro people who organized it * * *."

Manning Johnson testified in public hearings, Committee on Un-American Activities, July 14, 1949, as follows concerning the National Negro Congress and A. Phillip Randolph:

"Mr. TAVENNER. What was the relationship of that commission (Negro Commission of the Communist Party) to the American Negro Labor Congress, the League of Struggle for Negro Rights, and the National Negro Congress?"

"Mr. JOHNSON. The Negro League was formed by the Communist Party, and its program was identical with the program of the Communist Party for the Negro."

"The majority of members of the American Negro Labor Congress were Communists or fellow travelers. It is a very narrow, sectarian organization, and the party decided to change its name and broaden its activities, so the name was changed to the League of Struggle for Negro Rights. * * *"

"The League of Struggle for Negro Rights was never successful in penetrating any broad sections of the Negro people. It remained a very narrow and sectarian organization. So the party, after having received the open letter, which was really drawn in Moscow and called for breaking away from narrow organizations, in line with this open letter, at a meeting of the national committee which, as I recall, was in the latter part of 1934 or early part of 1935, we discussed the general situation among Negroes, and the conclusion was that there was considerable unrest among them and that the time was historically right for the formation of a broad and all-inclusive organization."

"As a result of that discussion and that conclusion, the national committee of the party, upon the recommendation of one of the members of the Negro commission present at that meeting, decided to set up the National Negro Congress. The national committee gave James W. Ford the responsibility, along with the Negro commission of the national committee, to form that congress."

"We were fishing around for someone to head the congress, and we found there was no finer person to get who was not a member of the party than A. Phillip Randolph. He was approached and agreed."

"The third—and fatal—National Negro Congress was held in Washington, D.C. The Communists had become so drunk with power, and they felt they had such strong control over the congress, that they thought they could walk roughshod over the liberals, and they antagonized A. Phillip Randolph and he began to fight James W. Ford and others."

"James W. Ford and others insisted I fight A. Phillip Randolph, and I refused to do so, and at that time I predicted they were on the road to breaking up the congress."

"The fight widened to such an extent that Randolph began to speak openly against Communist domination. I used to wonder how Randolph could be so naive as to not know it was a Communist-front organization.

"Before the third congress met, we got wind that Randolph was going to resign. We had Communists go to that congress representing various paper organizations so as to give them control in voting.

"When Randolph saw the congress was packed with Communists, Randolph resigned and walked out * * *." (Pp. 510-512.)

A. Philip Randolph supported a statement to Congress issued by the American League Against War and Fascism against neutrality measures as reported by the Daily Worker of February 27, 1937 (p. 2). The Daily Worker of April 22, 1938 (p. 2), reported that A. Philip Randolph was one of the signers of a letter urging open hearings on the Neutrality Act which was sent to Congress under auspices of the American League for Peace and Democracy. A. Philip Randolph was nominated as a member of the National Labor Committee of the American League for Peace and Democracy at the American Congress for Peace and Democracy held in Washington, D.C., January 6-8, 1939, as shown by the pamphlet, "7½ million * * *" (p. 32). Letterheads of the China Aid Council of the American League for Peace and Democracy dated May 18, 1933, and June 11, 1938, name him as a sponsor of the council. He was a sponsor of the Easter drive of the China Aid Council of the American League * * *, as shown by the Daily Worker of April 8, 1933 (p. 2). A photostatic copy of a letterhead of the American League for Peace and Democracy dated April 6, 1939, listed A. Philip Randolph as a national sponsor of that organization.

The Attorney General of the United States cited the American League Against War and Fascism as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948. The organization was redesignated by the Attorney General April 27, 1953, pursuant to Executive Order No. 10460, and included it on the April 1, 1954, consolidated list of organizations previously designed. The organization was cited previously by the Attorney General as a Communist-front organization (in re Harry Bridges, May 28, 1942, p. 10). The Special Committee on Un-American Activities, in its report dated March 29, 1944 (p. 53), cited the American League Against War and Fascism as "organized at the First United States Congress Against War which was held in New York City, September 29 to October 1, 1933. Four years later at Pittsburgh, November 26-28, 1937, the name of the organization was changed to the American League for Peace and Democracy. * * * It remained as completely under the control of Communists when the name was changed as it had been before."

The Attorney General cited the American League for Peace and Democracy as subversive and Communist in letters released June 1 and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Attorney General cited the group previously as established in the United States in 1937 as successor to the American League Against War and Fascism "in an effort to create public sentiment on behalf of a foreign policy adapted to the interests of the Soviet Union. * * * The American League for Peace and Democracy * * * was designed to conceal Communist control, in accordance with the new tactics of the Communist International" (Congressional Record, Sept. 24, 1942, pp. 7663 and 7684). The Special Committee on Un-American Activities, in its report of January 3, 1939 (pp. 69-71), cited the American League for Peace and Democracy as "the largest of the Communist-front movements in the United States."

A letterhead of the organization, Commonwealth College, dated January 1, 1940, listed A. Philip Randolph as a member of the National Advisory Committee. He endorsed the reorganization plan of Commonwealth College, as shown by the August 15, 1937, issue of Fortnightly, a publication of the college (p. 3).

The Special Committee on Un-American Activities cited Commonwealth College as a Communist enterprise in its report of March 29, 1944 (pp. 76 and 167). The Attorney General cited the Commonwealth College as Communist in a letter released April 27, 1949; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list.

An undated leaflet of the League for Mutual Aid listed A. Philip Randolph as a member of the executive committee of that organization. He was a guest of honor at the 17th annual dinner of the League for Mutual Aid held February 1, 1937, as shown by New Masses, January 26, 1937 (p. 87).

The League for Mutual Aid was cited as a Communist enterprise by the special Committee on Un-American Activities in its report of March 29, 1944 (p. 76).

A. Philip Randolph was a sponsor of the Medical Bureau and North American Committee To Aid Spanish Democracy, as shown by letterheads of the organization dated July 6, 1938, and February 2, 1939. The Daily Worker of June 2, 1938 (p. 5), reported that A. Philip Randolph was a supporter of a meeting of the Medical Bureau * * *.

"In 1937-38, the Communist Party threw itself wholeheartedly into the campaign for the support of the Spanish Loyalist cause, recruiting men and organizing multifarious so-called relief organizations." Among these was the Medical Bureau and North American Committee To Aid Spanish Democracy. (Special Committee on Un-American Activities, report, Mar. 29, 1944, p. 82.)

New masses for October 26, 1937 (p. 11), reported that A. Philip Randolph was chairman of the National Negro Congress. A. Philip Randolph was president of the National Negro Congress, as shown by the Daily Worker of January 1, 1938 (p. 4), January 13, 1938 (p. 3), April 10, 1938 (p. 3), and the pamphlet, Second National Negro Congress, October 1937. He was president of the Third National Negro Congress, as reported by the June 1940 issue of the Communist (p. 548). The official proceedings of the 1936 National Negro Congress (p. 41), listed A. Philip Randolph as a member of the national executive council of the organization. He spoke at a gathering of the congress, as reported by the Daily Worker of March 8, 1938 (p. 3). The Daily Worker of February 15, 1938 (p. 7), reported that A. Philip Randolph contributed to the official proceedings of the Second National Negro Congress.

The Attorney General cited the National Negro Congress as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The organization was cited previously by the Attorney General as a Communist-front group (Congressional Record, Sept. 24, 1942, pp. 7087 and 7088). The Special Committee on Un-American Activities, in its report of January 3, 1939 (p. 81), cited the National Negro Congress as "the Communist-front movement in the United States among Negroes * * *."

A. Philip Randolph was a consultant of the Panel on Citizenship and Civil Liberties of the Southern Conference for Human Welfare, as shown by an official report of the organization, dated April 19-21, 1942. The call to the second conference, Southern Conference for Human Welfare, April 14-16, 1940, listed A. Philip Randolph as a sponsor of that conference.

The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 147), cited the Southern Conference for Human Welfare as a Communist front which received money from the Robert Marshall Foundation, one of the principal sources of funds by which many Communist fronts operate. The Committee on Un-American Activities, in its report of June 12, 1947, cited the Southern Conference for Human Welfare as a Communist-front organization "which seeks to attract southern liberals on the basis of its seeming interest in the problems of the South" although its "professed interest in southern welfare is simply an expedient for larger aims serving the Soviet Union and its subversive Communist Party in the United States."

The Daily Worker, issues of March 28, 1938 (p. 3), and April 4, 1938 (p. 3), listed A. Philip Randolph as a sponsor of the World Youth Congress. The special Committee on Un-American Activities, in its report of March 29, 1944 (p. 183), cited the World Youth Congress as a Communist conference held in the summer of 1938 at Vassar College.

A. Philip Randolph signed a petition of the American Friends of Spanish Democracy to lift the arms embargo as shown by the Daily Worker of April 8, 1938 (p. 4). The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 82), cited the American Friends of Spanish Democracy as follows: "In 1937-38, the Communist Party threw itself wholeheartedly into the campaign for the support of the Spanish Loyalist cause, recruiting men and organizing multifarious so-called relief organizations * * * such as * * * American Friends of Spanish Democracy."

A. Philip Randolph is listed as a sponsor on a letterhead of the American Relief Ship for Spain dated September 3, 1938. The American Relief Ship for Spain was cited as "one of the several Communist Party front enterprises which raised funds for Loyalist Spain (or rather raised funds for the Communist end of that civil war)." (Special Committee on Un-American Activities Report, Mar. 29, 1944, p. 102).

The proceedings of the Congress of Youth of the American Youth Congress, July 1-5, 1939 (p. 3), listed A. Philip Randolph as a signer of the call to the congress.

A. Philip Randolph was a sponsor of the Conference on Pan-American Democracy (letterhead, Nov. 16, 1938). The booklet, *These Americans Say*, published by the Coordinating Committee To Lift the Embargo, named him as a representative individual. He was a sponsor of the Greater New York Emergency Conference on Inalienable Rights (program of conference, Feb. 12, 1940).

The Conference on Pan-American Democracy (known also as Council for Pan-American Democracy) was cited as subversive and Communist by the Attorney General in letters released June 1 and September 21, 1948; redesignated April 27, 1958, pursuant to Executive Order No. 10450. The Special Committee on Un-American Activities, in its report of March 29, 1944 (pp. 161 and 161), cited the organization as a Communist front which defended Carlos Luiz Prestes, a Brazilian Communist leader and former member of the executive committee of the Communist International.

The Special Committee on Un-American Activities, in its report of March 29, 1944 (pp. 137 and 138), cited the Coordinating Committee To Lift the (Spanish) Embargo as one of a number of front organizations set up during the Spanish civil war by the Communist Party in the United States and through which the party carried on a great deal of agitation.

The Greater New York Emergency Conference on Inalienable Rights was cited as a Communist front which was succeeded by the National Federation for Constitutional Liberties (special committee report, Mar. 29, 1944, pp. 63 and 129). The Committee on Un-American Activities, in its report of September 2, 1947 (p. 3), cited the Greater New York Emergency Conference on Inalienable Rights among a "maze of organizations" which were "spawned for the alleged purpose of defending civil liberties in general, but actually intended to protect Communist subversion from any penalties under the law."

A. Philip Randolph was a sponsor of the Spanish Refugee Relief Campaign, as shown by the back cover of a pamphlet, *Children in Concentration Camps*. He signed the call to a United May Day Conference, according to the *Daily Worker* of March 17, 1937 (p. 4). An undated letterhead of the United May Day Committee listed him as chairman.

The Special Committee on Un-American Activities cited the Spanish Refugee Campaign as a Communist-front organization (report, Jan. 3, 1940, p. 9).

The United May Day Conference was cited as "engineered by the Communist Party for its 1937 May Day demonstrations" and also organized by the party in 1938 (special committee report, Mar. 29, 1944, pp. 124 and 139).

The Attorney General cited the United May Day Committee as subversive and among the affiliates and committees of the Communist Party, U.S.A., which seeks "to alter the form of government of the United States by unconstitutional means." (Letter released Dec. 4, 1947; redesignated Apr. 27, 1953, and included on the Apr. 1, 1954, consolidated list.)

The *Daily Worker* of January 23, 1937 (p. 3), announced that A. Philip Randolph was scheduled to speak at the Southern Negro Youth Congress, Richmond, Va., February 12-14. "The People Versus H.C.L." listed him as a sponsor of the Consumers National Federation. He was shown as a sponsor of the Public Use of Arts Committee on an undated letterhead of that organization.

The Southern Negro Youth Congress was cited as subversive and among the affiliates and committees of the Communist Party, U.S.A., which seeks to alter the form of government of the United States by unconstitutional means. (Attorney General, letter released Dec. 4, 1947; redesignated Apr. 27, 1953, and included on Apr. 1, 1954, consolidated list.) The Special Committee on Un-American Activities, in its report of January 3, 1940 (p. 9), cited the Southern Negro Youth Conference as a Communist-front organization. The Committee on Un-American Activities, in its report of April 17, 1947 (p. 14), cited the Southern Negro Youth Congress as "surreptitiously controlled" by the Young Communist League.

The Consumers National Federation was cited as a Communist-front group by the special committee in its report of March 29, 1944 (p. 155).

Public Use of the Arts Committee was cited as a Communist front by the special committee in its report of March 29, 1944 (p. 112).

EXHIBIT 5

CHARLES S. ZIMMERMAN

Member, advisory committee, Congress of Racial Equality (CORE).
 Identified as secretary-manager, Local 22, ILGWU. Sponsor, National Anti-War Congress, May 1938, auspices of Keep America Out of War Committee.
 Ed. B. "Rev. Age" Communist Party of U.S.A.
 National Executive Commission, Am. League Against War and Fascism, 1935.¹
 Signer of "Golden Bk." for Russia (Daily Worker, Oct. 8, 1937, p. 5).
 Res. Com't. People's Congress for Democracy and Peace, 1938.²
 Governing Commission, Keep America Out of War Congress, 1939.
 Sponsor, Fourth Annual Conference American Commission for Protection of Foreign Born, March 1940.³
 Eulogized Russia (Soviet Russia Today, November 1935, p. 49).⁴
 State Executive Commission (New York), American Labor Party, 1938, Communist Party candidate fifth assembly district, Bronx, N.Y. (Daily Worker, Oct. 14, 1925).
 Sponsor, Spanish Refugee Aid, Inc.
 Identified as manager, AFL International Ladies' Garment Workers, Local 22.
 Statement protesting proposal to outlaw Communist Party (Daily Worker, Mar. 13, 1947, p. 4).
 Protested proposal to outlaw Communist Party. (Daily Worker, Mar. 13, 1947, p. 1).
 Presiding commissioner, 3d U.S. Congress Against War and Fascism, 1936 (Proceedings of Congress, p. 19).⁵

EXHIBIT 6

Walter and his brother Victor went to Europe in 1933. There, while working and studying in an industrial plant in Russia, on January 20 of 1934, they wrote a letter to close friends in Detroit, a copy of which was published in the August 14, 1948, issue of the Saturday Evening Post.

Among other things, the letter stated:

"What you have written concerning the strikes and the general labor unrest in Detroit, plus what we have learned from other sources of the rising discontent of the American workers, makes us long for the moment to be back with you in the frontlines of the struggle; however, the daily inspiration that is ours as we work side by side with our Russian comrades in our factory, the thought that we are actually helping to build a society that will forever end the exploitation of man by man, the thought that what we are building will be for the benefit and enjoyment of the working class, not only of Russia, but the entire world, is the compensation we receive for our temporary absence from the struggle in the United States. And let no one tell you that we are not on the road to socialism in the Soviet Union. Let no one say that the workers in the U.S.S.R. are not on the road to security, enlightenment and happiness."

The factory in which they worked was described as "the largest and most modern in Europe, and we have seen them all; there are no pictures of Fords and Rockefellers, or Roosevelts, and Mellon. No such parasites, but rather huge pictures of Lenin, etc., greet the workers' eyes on every side. Red banners with slogans "Workers of the World Unite" are draped across the cranesways. Little red flags fly from the tops of presses, drill presses, lathes, kellers, etc. Such a sight you have never seen before. Women and men work side by side—the women with their red cloth about their heads, the men with their fur hats. We work here 7 hours per day, 5 days a week (our week here is 6 days long). At noon we all eat in a large factory restaurant where wholesome plain food is served. A workers' band furnishes music to us from an adjoining room while we have dinner. For the remainder of our 1-hour lunch period we adjourn to the Red Corner recreation where workers play games, read papers and magazines or technical books or merely sit, smoke, and chat. Such a fine spirit of comradeship you have never before witnessed in your life. Superintendent leaders and

¹ The Attorney General's list.

² California Committee on Un-American Activities.

³ House Un-American Activities Committee.

ordinary workers are all alike. If you saw our superintendent as he walks through the shop greeting workers with 'Hello, Comrade,' you could not distinguish him from any other worker."

Further praising the Russian thinking and methods, the letter ends with the statement: "Carry on the fight for a Soviet America."

WALTER P. REUTHER

The public records, files, and publications of this committee contain the following information concerning Walter P. Reuther. This report should not be construed as representing the results of an investigation by this committee nor findings of this committee. It should be noted that the individual referred to is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

In testimony of Mr. John P. Frey, president of the metal trades department of the American Federation of Labor, given before the Special Committee on Un-American Activities, August 13, 1938, we find:

"Mr. Frey. These are the 280-odd members of the Communist Party who are now or have been on CIO organization payrolls. There are one or two who have not been on the payroll, but I will call attention to them. If it is the committee's desire, I will read all these names and turn them over. They are all numbered '1,' '2,' '3,' * * * and so forth; and I will comment on those which are of a more interesting or important character.

"135. Walter Reuther, Detroit, Mich.: He is one of the leaders of Automobile Workers Union, and President Martin has preferred charges against him. He has been to Russia several times and made reports as a result (public hearings, vol. 1, pp. 112 and 116).

"134. Walter Reuther, Detroit, Mich.: This fellow is one of the leaders of the Auto Workers Union and President Martin has preferred charges against him. He visited Soviet Russia and sent back a letter to this country which included the following paragraph: 'Carry on the fight for a Soviet America' (public hearings, vol. 1, p. 125).

"Mr. Frey. There are two disrupting factors in the automobile workers at the present time. One consists of the bulk of the membership who very much resent the Communist control that was secured of national officers. The other is an internal fight between two factions of the Communist Party. With that I do not want to deal. All that I desire to call your attention to is a complete report of their last meeting, which I am submitting—my report of what went on.

"Before the United Automobile Workers Union Convention opened in Milwaukee, the Communist Party members held a faction meeting or caucus at Eagles Hall in that city. There were present at this caucus Wyndham Mortimer, Ed Hall, Walter Reuther, and about 90 delegates to the convention who were actual Communist Party members. Also present were William Weinstein, Michigan secretary of the Communist Party; Jack Stachel, of New York" (ibid., p. 248).

Mr. Frey also submitted a report of the Second Annual Convention, United Automobile Workers of America, from which the following excerpts were taken:

"Since Mr. Martin controlled a majority of the delegates to the convention, which he had lined up before the opening day, Lovestone advised a drive to eliminate the regular Communist Party members in the leadership of the so-called unity faction, led by Vice Presidents Wyndham Mortimer, of Flint, Mich.; Ed Hall, of Milwaukee, Wis.; and Walter Reuther, head of the west side local of the union in Detroit. Lovestone's policy was to eliminate Mortimer, Hall, and Reuther and thus strengthen the position of the Trotskyist group behind Martin. There is no question that Martin and Frankenstein, influenced by Lovestone, were prepared to clean house of the Communist group, and it is equally true that up to a month before the convention the Mortimer-Hall-Reuther faction was trying to get rid of President Martin.

"When President Martin, much to the surprise of John L. Lewis and the Mortimer-Hall-Reuther faction, lined up a majority of the delegates to the convention, the latter faction was forced to change its policies. As stated before, the Mortimer-Hall-Reuther faction is Communist-controlled but disguised that fact by calling themselves the unity group, as, under the guise of unity, they thought they could save their own necks and possibly build a fire under Martin during the course of the convention.

"Mortimer, Hall, and Reuther worked closely with Gra. Cassaway, a personal representative of John L. Lewis; Ray Edmundson, president of the Illinois district of the United Mine Workers and CIO director in that State, and David Dubinsky, a president of the International Ladies Garment Workers Union. On the evening of August 23, Charles S. Zimmerman, president of the powerful New York Local No. 22 of the International Ladies Garment Workers Union and a leading Trotskyite and follower of Lovestone, arrived in Milwaukee to use his influence on Dubinsky.

"On the same day (Wednesday), a load of Communist leaders came from Chicago, among them Joe Weber, a Steel Workers organizing committee organizer in South Chicago; Harry Shaw and Jack Johnstone, who had in the interim returned to Chicago. Upon arrival of the Chicago group, another Communist Party caucus was called, to which only the top elements were invited. Those present were Jack Stachel, Roy Hudson, William Weinstone, Ned Sparks, Wyndham Mortimer, Ed Hall, Walter Reuther, and B. K. Gebert" (public hearings, vol. 1, pp. 248-251).

Mr. Frey continued with his testimony as follows:

"The only material in connection with the automobile workers union which I want to file with the committee is a publication known as the Great Sidown Strike. It was prepared by William Weinstone, who is a member of the central committee. He has an impressive record. His name is William Wolf Weinstone, and he is district organizer of district No. 7, Communist Party, headquarters, Detroit. He has had direct charge of party activities within the Auto Workers Union from the beginning. Among those reporting to him are Maurice Sugar, who is the counsel for one group of the auto workers, and has been a candidate for office in Detroit on the Communist ticket; also active with him are Roy Reuther, Walter Reuther, William Raymond, and Wyndham Mortimer" (ibid., p. 255).

In the information submitted by Mr. Walter S. Steele, chairman of the American Coalition Committee on National Security representing various organizations, in connection with his testimony given before the Special Committee on Un-American Activities in public hearings, August 17, 1938, the following reference was made to Walter Reuther:

"Among those sending greetings to the Second National Negro Congress were Walter Reuther, communistic president of Local 174 of the United Auto Workers Association" (ibid., pp. 625 and 626).

In testimony given by Mr. John D. McGillis, secretary, Detroit Council 805, Knights of Columbus, given before the Special Committee on Un-American Activities in public hearings on October 11, 1938, it was shown that Doctors Landrum and Shafarman of Detroit gave physical examinations to members of the Communist Party, who were able to pay for such examinations, but, instead, billed the city of Detroit. These examinations were in connection with recruiting for Loyalist Spain, and in some cases the doctors "have given them to other people prominent in communistic activities in Detroit." Among the latter, Mr. McGillis listed "Walter Reuther and his wife" (public hearings, vol. 2, pp. 1239, 1247-1248).

On October 12, 1938, Sgt. Harry Mikullak, Detroit Police Department, testified before the special committee and made the following reference to Walter Reuther:

"Walter P. Reuther is president of the West Side Local 174, and he signs this TB test stating that he could not afford to pay for the examination" (ibid., p. 1280). Sergeant Mikullak's testimony referred to the same matter as that referred to in the testimony of John D. McGillis quoted above.

In testimony of Mr. Clyde Morrow, a Ford Motor Co. employee, given in public hearings before the Special Committee on Un-American Activities on October 21, 1938, the following reference was made to Walter P. Reuther:

"Mr. Morrow. Mr. Martin, in his haste to get the automobile workers organized, went out and hired Communist members to do it. I think Martin thought he could use them 3 or 4 months and get rid of them.

"The CHAIRMAN. And they have gotten to the point where they might get rid of him?

"Mr. Morrow. That is right. They might get rid of Martin the way it looks to me. I hope not.

"The CHAIRMAN. Why cannot the international officers get rid of these men?

"Mr. Morrow. Here is the setup in Detroit. I only speak for Detroit because that is all I know about in Michigan. The international union has fired many Communist Party organizers. Now, what happens to them when Martin fires

them? We have three or four 'Red' locals in Detroit, local 155, which is a haven for discharged officers, and when they are discharged by Martin these 'Red' locals immediately hire them as their financial secretaries, or recording secretaries, or organizers. Local 174 is what I would call an old soldiers' home for discharged Communist Party members whom Martin has fired. They are immediately taken in by the Communists in charge of their locals, such as Loyd Jones and Walter Reuther, and people like that." (Ibid., pp. 1652-1653.)

The following excerpts from the testimony of John M. Barringer, city manager and director of publicity of Flint, Mich., given in public hearings, October 21, 1938, before the Special Committee on Un-American Activities concern the sit-down strike at the Chevrolet Motor Co., December 3, 1936:

"Mr. MOSIER. What part would you say that members of the Communist Party, Socialist Party, or the leftwing group of the Socialist Party played in that strike?

"Mr. BARRINGER. They played a very prominent part. We came in contact in every trouble with the Reuther brothers, Travis, and men of that sort.

"Mr. MOSIER. They were men you knew, and while you could not prove they were members of the Communist Party, you knew they were in sympathy with them.

"Mr. BARRINGER. That is right" (public hearings, vol. 2, p. 1682).

Mr. J. B. Matthews, testifying before the special committee on November 7, 1938, made the following reference to Walter Reuther:

"Mr. MATTHEWS. I had personal contacts with all three of the Reuther brothers, who have been prominent in the automobile workers union—Walter, Victor, and Roy. The night that Walter and Victor Reuther sailed for Russia many years ago, I had dinner with them and saw them off and had some contact with them while they were in Russia and subsequent to their return. I do not know what their exact political connections are at the present time. I only know that their ideology, if I may be permitted to use the word here, is Communist" (public hearings, vol. 3, p. 2188).

In testimony given by Mr. Zygmund Dobrzynski, a member of the UAW, given before the Special Committee on Un-American Activities in public hearings, November 14, 1938, the following reference was made to Walter Reuther:

"The CHAIRMAN. Mr. Dobrzynski, I believe you were testifying before lunch with reference to the conference or conversation you had with Mr. Weinstone. Did those conversations take place in his office?

"Mr. DOBRZYNSKI. Yes, sir; they took place in the Communist Party headquarters. He also mentioned the Reuther brothers, Victor, Walter, and Roy, as workers with him. He stated, of course, that they were members of the Socialist Party, and not of the Communist Party, but that on certain policies they worked in conjunction with each other.

"The CHAIRMAN. You say he mentioned Roy, Victor, and Walter Reuther?

"Mr. DOBRZYNSKI. Yes, sir; as workers with him in the union on certain policies. He stated to me that they were not members of the Communist Party, but were members of the Socialist Party" (Ibid., pp. 2210-2221).

A report of the U.S. Chamber of Commerce entitled, "Communists Within the Labor Movement," which was inserted in the record in connection with the testimony of Dr. Emerson Schmidt in public hearings before the Committee on Un-American Activities on March 20, 1947, contains the following reference to Walter Reuther:

"Gains or even demands made in one section of the A.F. of L., or the CIO, tend to repeat themselves elsewhere. It must be remembered that the labor movement is intensely political. If non-Communist leaders do not gain as much as their opponents, they may soon find themselves with an active Communist opposition in their own union. The opposition makes capital of the reasonable demands of the honest leadership. Hence, irresponsibility in labor tends to become infections.

"An illustration of this analysis can be found in the policies of Walter Reuther. In the political struggles of labor, Reuther is considered a leader of the anti-Communist bloc. But at the same time, he is head of a union which has a powerful Communist minority. He faces sabotage, not only from this clique, but also from the national headquarters of the CIO. Communist influences there have persuaded the top leadership that Reuther is a threat to their positions. As a result, Reuther faces an alternative; he must either be aggressive or retire in favor of some Communist dupe. This explains in part the conflict in his public statements. On the one hand, he may favor increased labor productivity

and decri inflationary wage rises. On the other hand, he makes wage demands which cannot be other than inflationary" (public hearings on H.R. 1884 and H.R. 2122, Mar. 24-28, 1947, p. 173).

Further references to Walter Reuther occur in the committee's hearings regarding communism in labor unions during testimony of Leon E. Venne and Walter Peterson on February 27, 1947, as follows:

"Mr. STRIPLING. Just a moment, Mr. Venne. In connection with the strike, Mr. Chairman, I would like for the record to show the attitude of the now president of the United Automobile Workers with reference to this local.

"The CHAIRMAN. What is his name?

"Mr. STRIPLING. Walter P. Reuther. In a newspaper article which appeared in the Buffalo Courier-Express on August 5, 1941, Walter P. Reuther charged that the Allis-Chalmers local was 'dominated by political racketeers of Communist stripe.' He described a local 248 election as 'the worst kind of strong-armed political racketeering' (p. 36).

"Mr. VENNE. I believe that labor, in order to make any of the gains that labor must make, must clean house, and it doesn't start at the bottom, but it starts at the top. We see in Allis-Chalmers today a situation that has come about through political maneuvering of two people who want the same job in the United Automobile Workers of America, namely, Walter Reuther and R. J. Thomas. R. J. Thomas is now using the Allis-Chalmers strike to insure that at the next convention he will have 87 votes to cast in favor of his presidency. R. J. Thomas—I mean, R. J. Thomas—belongs to the leftwing bloc in the international. While I don't pretend to call him a Communist, he accepts their support" (p. 48).

"Mr. VENNE. The international—I mean, local 248—is exonerated from paying per capita tax to the international union while a strike is in progress. On April 29, the day the strike was called, local 248 had 87 votes at the international convention—that is, they have a vote for every one of the members. They will still carry that 87 votes at the convention that is to be held; I believe it is in September.

"Providing that—I am getting ahead of myself.

"The constitution of the United Auto Workers states that a per capita tax will be based on a period of 1 year preceding 60 days from the convention date, which means that if the strike continues to approximately June 31, then local 248 will carry 87 votes to support R. J. Thomas in his fight against Walter Reuther; whereas, if the strike was settled, say, today, we will have to figure some months on an 87 basis and some months at possibly—I would state that if the strike were settled today the members of local 248 would drop to an alltime low or probably 2,000 to 3,000 on the outside, and probably less.

"The CHAIRMAN. Then, Mr. Venne, do you mean to imply that the real purpose of this strike is to determine the national leadership between Reuther and Thomas?

"Mr. VENNE. I will put it this way, sir; the continuation of this strike—the continuance of the strike is due to the—rests on the political angle of the international fight for the presidency of the United Auto Workers of America" (p. 48).

Mr. Venne's testimony was followed by that of Mr. Walter Peterson of Allis-Chalmers, in which he referred to Walter Reuther, as follows:

"Mr. STRIPLING. Did you hear the testimony of the preceding witness, Mr. Venne?

"Mr. PETERSON. Yes.

"Mr. STRIPLING. What do you have to say concerning his testimony about the 87 votes?

"Mr. PETERSON. That is right. If the strike is prolonged until June 1947, which would be about 60 days before the date of the convention, local 248 would still carry 87 votes; and if the strike was settled before that, they would lose approximately, about 30 votes.

"Mr. MUNDT. You mean they would lose about 60 votes?

"Mr. PETERSON. They would lose about 60 votes.

"Mr. STRIPLING. Have you made any effort to oust the Communists—as a member of good standing?

"Mr. PETERSON. Yes, we did. We have been in and out of this fight practically since 1939. In 1941, I had much correspondence with Clare Hoffman. We already know about it.

"Mr. STRIPLING. Did you ever communicate with any of the international officers of the union?"

"Mr. PETERSON. I did."

"Mr. STRIPLING. Did you communicate with them? Who did you communicate with?"

"Mr. PETERSON. I communicated with Mr. Reuther and Mr. Murray both."

"Mr. STRIPLING. Walter Reuther?"

"Mr. PETERSON. Yes."

"Mr. STRIPLING. Did you get any response?"

"Mr. PETERSON. No. This dates back to last September 1946. There was about four or five of us from our department who got together and talked things over and we gradually expanded. * * * We decided at last that there was no way we could beat them but by going on the other side of the fence and withdrawing our support from the union, which we did. There was at that time about 3,000 of us that went in and more workers came in right along and in the latter part of November we had repudiation cards printed. * * *

"Mr. STRIPLING. How many members of local 248 signed such a card?"

"Mr. PETERSON. We had approximately—at the time we sent the petition in, we had 2,600 of those cards signed."

"Mr. STRIPLING. Where did you send the petition?"

"Mr. PETERSON. We sent it to Mr. Reuther—one to Mr. Reuther and one to Mr. Murray."

"Mr. STRIPLING. And you received no reply from them?"

"Mr. PETERSON. We received no reply whatsoever. * * * It happened that on December 8, Walter Reuther was in town, was in Milwaukee, and we made an attempt to contact him. I had tried to contact him all that day at different points around town. I knew where he was and failed to make connections. When the rioting happened on this Monday, we put out a call for a special meeting for that evening. * * *

"During the course of the meeting I stated the fact that Reuther was in town the day before and failed to notify us or get in touch with us, and I failed to contact him, and what happened that day out at the plant."

"We took that for his answer to our demands" (public hearings regarding communism in labor unions in the United States, Feb. 27, July 23, 24, and 25, 1947, pp. 36, 48, 51-52).

The Daily Worker of September 4, 1937 (p. 8), contained a picture of the three Reuther brothers, above the following caption: "Three militant members of the unity caucus of the United Auto Workers Union are Roy, Victor, and Walter Reuther, the latter also a member of the International Executive Board of the union. These brothers played a prominent part in the Milwaukee convention. They are champions of the united front within the Socialist Party and are opponents of Trotskyism as a counterrevolutionary movement."

EXHIBIT 7

ROGER N. BALDWIN

Member, National Committee for Justice in Columbia, Tenn., 1947 (pamphlet, "Terror in Tennessee").

American Committee Opposed to Alien Registration, 1930.

Board of Directors, American Funds for Public Service, 1930.

National Committee All A. Anti-Imperialist League.¹

Vice Chairman Anti-Imperialist League of United States.¹

Labor Defense Council.¹

National Committee To Aid Striking Miners Fighting Starvation, 1931.

National Committee, The International Workers Aid, 1931.

Advisory Board, Russian Reconstruction Farms, 1925.

New York Committee for Progressive Miners Relief, 1932.

Arrangements Committee, U.S. Congress Against War, 1933.¹

American Committee for Struggle Against War, 1933.¹

Endorser, First National Convention, Friends of Soviet Union, 1934.

Supporter, National Committee to Aid Victims of German Fascism, 1934.¹

Advisory Board, American Committee for Protection of Foreign Born, 1935.¹

National Congress for Unemployed and Social Insurance, Washington, D.C., January 1935.¹

- National Bureau, American League Against War and Fascism, 1935.¹
 Chairman, Executive Committee, Political Prisoners Bail Fund, 1935.
 Contributor, "Soviet Russia Today", 1935.²
 Speaker for I.L.D., in defense of Scottsboro Boys, 1935.¹
 Advisory Council, Book Union, 1935.³
 Advisory Committee, Commonwealth College, 1935-36.¹
 Scottsboro Defense Committee.²
 Member, League for Mutual Aid, 1936.
 Vice Chairman, United Citizens Committee for the American League Against War and Fascism, 1936.¹
 Sponsor, American Friends of Spanish Democracy, 1936-38.²
 Advisory Board, American Student Union, 1937.²
 Sponsor, mass celebration in honor of "Mother" Bloor, 1937.
 Supporter, American Youth Congress, 1937.¹
 Eulogized Russia on 20th anniversary ("Soviet Russia Today", December 1937, p. 34).²
 Speaker, The Group (Group Theater), 1937 (handbill) (21—Communist Movements—Cultural).²
 Speaker at United Anti-Nazi meeting, Yorkville, N.Y. (Daily Work, May 14, 1938, p. 2).
 Marcus Graham Freedom of the Press Committee, 1938.
 Nominating Committee, People's Congress for Democracy and Peace, 1938.
 American Congress of Peace and Democracy, 1939.¹
 Civil Rights Commission, American League for Peace and Democracy, 1939.¹
 Sponsor, National Sharecroppers Week, 1939, auspices Southern Tenant Farmers Union.
 Board of Sponsors, American Guild for German Cultural Freedom, 1940.
 Attended IWO "Stop Dies" rally, New York City, 1940 (10th anniversary issue, "Fraternal Outlook").¹
 Called for freedom of Earl Browder (Washington Post, May 11, 1942, page advertisement).
 Washington Citizens' Committee To Free Earl Browder (Washington News, May 12, 1942).¹
 Sponsor, Lynn Committee To Abolish Segregation in the Armed Forces, 1944.
 Article, "New Masses," May 20, 1947, page 3.
 Committee, Refugees Defense Committee, 1947 (letterhead).
 Protested Communist arrest for election frauds, Chicago (Daily Worker, Sept. 24, 1940, p. 5) 29-13.
 A leader in COBE (Congress of Racial Equality). (People's World, Oct. 18, 1958, p. 7.)
 Asked to testify for "4 California Smith Act Victims" (Daily Worker, July 7, 1952, p. 2).
 On program of conference auspices American Forum for Socialist Education. (Daily Worker, Nov. 4, 1957, p. 3.)
 Roger N. Baldwin, NAAOP Committee of One Hundred:
 1. All-American Anti-Imperialist League—member of national committee—letterhead, April 11, 1928.¹
 2. American Committee for Protection of Foreign Born, supporter of Celler bill—Daily Worker, April 11, 1938, page 5.¹
 3. American Committee for Protection of Foreign Born—member of advisory board—letterhead, January 1940.¹
 4. American Committee for Struggle Against War—member—Struggle Against War, June 1933, page 2.²
 5. American Congress for Peace and Democracy—endorser—call, January 6-8, 1939.²
 6. American Friends of the Chinese People—participant in mass meeting—New Masses, October 5, 1937, page 30.¹
 7. American Friends of Spanish Democracy—member of executive committee—letterhead, February 21, 1938.¹
 8. American Fund for Public Service—member of board of directors—appendix IX, page 384.¹
 9. American League for Peace and Democracy—endorser of conference—Daily Worker, January 11, 1933, page 2.¹
 10. American League for Peace and Democracy—member of national committee—letterhead, July 12, 1939.¹

¹ The Attorney General's list.

11. American League Against War and Fascism—contributor to *Fight—Fight*, November 1933, page 10; September 1937, page 18.¹
12. American League Against War and Fascism—member of national bureau—*Fight*, April 1934, page 14.¹
13. American League Against War and Fascism—member of national executive committee—letterhead, August 22, 1935.¹
14. American League Against War and Fascism—speaker at conference—*Daily Worker*, February 27, 1937, page 2.¹
15. American League Against War and Fascism—participant in mass meeting—*New Masses*, October 5, 1937, page 30.¹
16. American Student Union—member of sponsoring committee—*Student Advocate*, February 1937, page 2.²
17. American Student Union—speaker at fourth national convention—*student Almanac*, 1939, page 32.²
18. American Youth Congress—member of national advisory committee—pamphlet, 1936; letterhead, July 4, 1937.¹
19. Anti-Nazi Federation of New York—U.S.A. supporter—letterhead, 1940.
20. Book Union—Advisory council member—letterhead, undated.²
21. Chicago Sobell Committee—signer of scroll presented to Urey at dinner, February 12, 1935—House committee report, "Trial by Treason," page 124.
22. Citizens Committee To Free Earl Browder—appealed to President Roosevelt on behalf of Browder—leaflet, 1942.¹
23. Committee To Aid the Striking Fleischers Artists—affiliated with—letterhead, undated.
24. Consumers National Federation—sponsor—pamphlet, December 11-12, 1937.²
25. Friends of the Soviet Union—member of reception committee—letterhead, September 1929.¹
26. Friends of the Soviet Union—contributor to "Soviet Russia Today"—September 1934, page 11.¹
27. Frontier Films—member of advisory board—letterhead, undated.²
28. Greater New York Emergency Conference on Inalienable Rights—speaker at conference—program, February 12, 1940.¹
29. Henri Barbusse Memorial Committee—chairman—*New Masses*, September 20, 1936, page 31.
30. International Labor Defense—speaker—*New Masses*, April 2, 1935, page 46.¹
31. International Workers Order—speaker at rally—*Fraternal Outlook*, June-July 1940, page 15.¹
32. Joint Committee for the Defense of the Brazilian People—signer of cable—appendix IX, page 949.¹
33. Labor Defense Council—member of national executive committee—*Voice of Labor*, October 20, 1922, page 12.²
34. Labor Defense Council—committee member—letterhead, April 6, 1923.²
35. Medical Bureau, American Friends of Spanish Democracy—member of executive committee—letterhead, November 18, 1936.²
36. Medical Bureau and North American Committee To Aid Spanish Democracy—member of executive board—booklet, 1938.¹
37. Mother Bloor Celebration Committee—sponsor of banquet; sent greetings—program, January 24, 1936, pages 7, 9.
38. National Committee To Aid Victims of German Fascism—U.S.A., supporter—letterhead, July 3, 1934.¹
39. National Committee Friends of the Soviet Union—endorser of—*Soviet Russia Today*, December 1933, p. 17.¹
40. National Committee To Aid Striking Miners Fighting Starvation—sponsor—letterhead, January 30, 1933.
41. National Congress of Unemployment and Social Insurance—sponsor—leaflet, January 5-7, 1935.²
42. National Mooney Council of Action—member—*Daily Worker*, May 12, 1933, page 2.
43. National People's Committee Against Hearst—member—letterhead, March 16, 1937.¹
44. National Scottsboro Action Committee—member of executive committee—*Daily Worker*, May 8, 1933, page 2.²

¹ House Un-American Activities Committee.

² California Committee on Un-American Activities.

45. National Student League—signer of call for support—Daily Worker, September 28, 1932, page 2.¹
46. New Masses—contributor—New Masses, April 2, 1935, page 13; November 10, 1937, page 20.¹
47. New Masses—sent letter—New Masses, May 13, 1941, page 23; August 20, 1947, page 17.
48. New York Professional Workers Conference on Social Insurance—speaker—leaflet, December 20, 1934.
49. New York Tom Mooney Committee—sponsor—letterhead, June 5, 1939.²
50. North American Committee To Aid Spanish Democracy—sponsor—New Masses, September 28, 1937, page 28.¹
51. People's Congress for Democracy and Peace—member of national bureau—letterhead, November 3, 1937.²
52. Political Prisoners Bail Fund Committee—trustee—letterhead, January 18, 1935.
53. Prisoners Relief Fund of International Labor Defense—member—leaflet, undated.¹
54. Protest Against Verdict of Guilty in Case of 11 Communist Leaders—spoke out against verdict—Worker, October 30, 1949, page 3.
55. Russian Reconstruction Farms—member of advisory board—letterhead, March 20, 1926.¹
56. Supports Dissenting Opinions of Black and Douglas Toward Smith Act—statement—Masses and Mainstream, August 1951, page 14.
57. Testimonial Dinner to Carol King—sent message—Lamp, April 1948, page 4.
58. U.S. Congress Against War—member of arrangements committee—letterhead, November 1, 1933.¹

LILLIAN SMITH

Member, Advisory Committee, Congress of Racial Equality (CORE). Editor, South Today, Georgia. Author, "Strange Fruit." National Citizens' Political Action Committee (Daily Worker, July 15, 1944, p. 4).

While attending American Peace Mobilization meeting, New York City, April 6, 1941, signed petition demanding freedom of Earl Browder (Daily Worker, May 2, 1941, p. 2).¹

Lillian Smith, NAACP Committee of One Hundred.

1. American Peace Mobilization—signer of petition to free Browder—Daily Worker, May 2, 1941, page 2.¹
2. Committee for Equal Justice for Mrs. Recy Taylor, an auxiliary of International Labor Defense—sponsor—booklet, August 1945.
3. Emergency Peace Mobilization—affiliated with—appendix IX, page 602.¹
4. National Citizens Political Action Committee—member—official list, August 28, 1944.
5. National Council of American-Soviet Friendship—speaker—Worker, November 19, 1944, page 2.¹
6. South Today—editor—National Citizens Political Action Committee official list, August 28, 1944.
7. Southern Conference for Human Welfare—consultant—official report, 1942.²

ROLAND B. GITTELSON

[Information from the files of the Committee on Un-American Activities, U.S. House of Representatives]

MAY 7, 1959.

For: Hon. JAMES O. EASTLAND.

Subject: Roland B. Gittelshon.

This committee makes no evaluation in this report. The following is only a compilation of recorded public material contained in our files and should not be construed as representing the results of any investigation or finding by the committee. The fact that the committee has information as set forth below on the subject of this report is not per se an indication that this individual, organization, or publication is subversive, unless specifically stated.

¹ The Attorney General's list.

² House Un-American Activities Committee.

³ California Committee on Un-American Activities.

Symbols in parenthesis after the name of any organization or publication mentioned herein indicate that the organization or publication has been cited as being subversive by one or more Federal authorities. The name of each agency is denoted by a capital letter, as follows: A—Attorney General of the United States; C—Committee on Un-American Activities; I—Internal Security Subcommittee of the Senate Judiciary Committee; J—Senate Judiciary Committee; and, S—Subversive Activities Control Board. The numerals after each letter represent the year in which that agency first cited the organization or publication. (For more complete information on citations, see this committee's "Guide to Subversive Organizations and Publications.")

As shown on their letterhead dated August 3, 1939, Rabbi Roland B. Gittelsohn was a sponsor of the Refugee Scholarship and Peace Campaign (C-1944) of the American League for Peace and Democracy (C-1939; A-1942; I-1956).

A news release of the Mid-Century Conference for Peace (C-1951; I-1956), dated May 8, 1950, listed Rabbi R. B. Gittelsohn (on p. 2) among the religious leaders who supported the appeal for special peace sermons made by Rev. Halford E. Luccock and Rabbi Edward E. Klein. Rabbi Gittelsohn's address was shown as Rockville Centre, N.Y.

EXHIBIT 8

IRA D'A. REID

OCTOBER 24, 1955.

For: HON. JAMES O. EASTLAND, U.S. Senator.
Subject: Dr. Ira DeA. Reid.

The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

On April 17, 1943, the American Committee for Protection of Foreign Born entertained at a United Nations in America dinner in New York City, as "a tribute to the contributions of the foreign born to America." The invitation and program of the dinner announced that Dr. Ira DeA. Reid would participate in the program by giving a testimonial to Franz Boas, identified by the Special Committee on Un-American Activities as "a noted Communist fellow traveler," (Report 1311 of the special committee on * * * dated Mar. 29, 1944.) In the same report, the American Committee for Protection of Foreign Born was cited as "one of the oldest auxiliaries of the Communist Party in the United States"; the Attorney General of the United States cited the American Committee * * * as subversive and Communist (press releases of June 1 and Sept. 21, 1948; included on consolidated list released Apr. 1, 1954.)

The Daily Worker of April 26, 1947, reported that Dr. Ira DeA. Reid had forwarded to the Council on African Affairs in New York his protest of the action by the Albany (N.Y.) city administration in refusing to permit Paul Robeson to hold a concert in the Albany public schools. The Attorney General cited the Council on African Affairs as subversive and Communist (press releases of Dec. 4, 1947, and Sept. 21, 1948).

A leaflet of the Southern Conference for Human Welfare entitled "The South Is Closer Than You Think," named Dr. Ira DeA. Reid as a member of that organization's executive board; he participated in the program of the Second Southern Conference for Human Welfare, April 14-16, 1941, as shown on the call to that conference. The Southern Conference * * * has been cited by the Committee on Un-American Activities as a Communist-front organization "which seeks to attract southern liberals on the basis of its seeming interest in the problems of the South" although its "professed interest in southern welfare is simply an expedient for larger aims serving the Soviet Union and its subservient Communist Party in the United States." (Report dated June 12, 1947, on the Southern Conference for * * *.)

Dr. Ira DeA. Reid was a member of the advisory board of the Southern Negro Youth Congress, as shown on a page from a leaflet published by the organization and letterheads of the group dated June 12, 1947 and August 11, 1947. The Attorney General cited the Southern Negro Youth Congress as "sub-

versive and among the affiliates and committees of the Communist Party, U.S.A., which seek to alter the form of government of the United States by unconstitutional means" (press release of Dec. 4, 1947). The group was also cited as a Communist-front organization by the Special Committee on Un-American Activities (report of Jan. 8, 1940); and as "surreptitiously controlled" by the Young Communist League. (Report of the Committee on Un-American Activities dated Apr. 17, 1947.)

A letterhead of the U.S. Congress Against War, dated November 1, 1933, contained the name of Ira DeA. Reid in a list of members of the arrangements committee; he was identified with the League for Industrial Democracy. The American League Against War and Fascism was organized at the First U.S. Congress Against War and Fascism which was held in New York City, September 20 to October 1, 1933. "The program of the first congress called for the end of the Roosevelt policies of imperialism and for the support of the peace policies of the Soviet Union, for opposition to all attempts to weaken the Soviet Union." (The Attorney General of the United States, Congressional Record, Sept. 24, 1942, p. 7683.) The Special Committee on Un-American Activities cited the congress as "completely under the control of the Community Party" (a report dated Mar. 29, 1944).

On April 26, 1948, the Daily Worker reported that "the Jefferson School (of Social Science) board of trustees hailed the statement of American educators protesting to President Truman and Attorney General Clark the blacklisting of the Jefferson School and other educational institutions. The educators' statement was regarded as a "welcome contribution to sanity" by the Jefferson School board, Prof. Lyman Bradley, chairman of the board, told the Daily Worker.

"The board lauded the statement's signers as 'educators of courage and conviction who refuse to be intimidated by the current hysteria emanating from Washington and who express their devotion to the ideals of democratic education by supporting the right of labor and of Marxists to conduct schools for the teaching of their views without threat or intimidation.'

"The statement of the board followed a report from Professor Bradley on the protest letter which had been sponsored by 12 prominent educators and sent to a selected list of college and university professors throughout the country. The open letter was signed by 153 professors from more than 60 institutions of higher learning." In the list of persons who signed the open letter was the name of Ira DeA. Reid, identified as chairman, sociology department, Atlanta University and director, People's College at Atlanta.

The Attorney General of the United States cited the Jefferson School of Social Science as an "adjunct of the Communist Party" (press release of December 4, 1947; included on consolidated list released April 1, 1954); the special committee cited it as follows in a report of March 29, 1944: "At the beginning of the present year, the old Communist Party Workers School and the School for Democracy were merged into the Jefferson School of Social Science."

In a leaflet of the National Council of the Arts, Sciences, and Professions entitled "To Safeguard These Rights * * *" the name of Ira DeA. Reid appears in a list of sponsors of a conference arranged by the Bureau on Academic Freedom of the National Council, October 9-10, 1948; in the same source, he was identified with Haverford College. He spoke at the Scientific and Cultural Conference for World Peace which was held under the auspices of the National Council of the Arts, Sciences, and Professions, as shown by the conference program; the same source revealed that he was one of the sponsors of that conference, as did the Daily Worker of February 21, 1949 (p. 2); the conference was held in New York City March 25-27, 1949. He spoke at a rally on academic freedom, arranged by the national council, on behalf of teachers who had been dismissed (see advertisement in the New York Star of Oct. 8, 1948, p. 10).

In a "Review of the Scientific and Cultural Conference for World Peace" which was prepared and released by the Committee on Un-American Activities April 26, 1950, the National Council of the Arts, Sciences, and Professions was cited as a Communist-front organization; in the same review, the Scientific and Cultural Conference was cited as a Communist front which "was actually a super-mobilization of the inveterate wheelhorses and supporters of the Communist Party and its auxiliary organizations."

On December 23, 1952, Mr. Louis Francis Budenz, member of the faculty of Fordham University and Seton Hall University, appeared under subpoena before

the Select Committee to Investigate Tax-Exempt Foundations and Comparable Organizations, House of Representatives. At that time Mr. Budenz gave the following testimony concerning the subject individual:

"Dr. Ira Reid, my impression is I've met him as a Communist, but I do know definitely, and can state here, that official communications from Stachel and Jerome, Trachtenberg, have definitely identified Dr. Reid as a Communist."

Later, on December 30, 1952, Dr. Reid appeared before the same committee, at his own request, for the purpose of giving him an opportunity to make a statement with reference to Mr. Budenz' testimony presented under oath. Dr. Reid identified himself as "Ira D. A. Reid, 2 College Lane, Haverford, Pa., professor of sociology at Haverford College." Dr. Reid stated for the record that "I am not a Communist, I have never been a Communist, and therefore regard that as a deliberate untruth as advanced by Mr. Budenz."

"It is true that I was a fellow of the general education board in 1933-34, receiving a fellowship that enabled me to complete my residence work at Columbia University. I was vouched for that fellowship by the man who was my college president, a very estimable person, the late John Hope, who wanted me to come to Atlanta to teach. After completing that work in residence at Columbia University, I went to Atlanta, Ga., and began teaching at Atlanta University."

"The one occasion when I was very certain that Communist influence was being brought to bear on the conference held in New York in 1949, I resigned from the program, and we did not appear. That has been thrown up against me several times and offered as proof that I was a Communist. I think as a preliminary statement, Mr. Counsel, that is what I wish to make."

Dr. Reid denied knowing Mr. Budenz, Mr. Jerome, and Mr. Stachel. Then committee counsel asked two or three questions of Dr. Reid, as follows:

"Mr. KEELER. * * * Did you sign a petition of the citizens committee to free Earl Browder?"

"Mr. REID. No, sir. I have submitted to another branch of the Government a statement, duly affirmed, to that effect."

"Mr. KEELER. Did you sign a letter defending the Jefferson School of Social Science?"

"Mr. REID. No, sir. As I have also stated, I know nothing about the Jefferson School of Social Science."

"Mr. KEELER. Were you a member of the executive board of the Southern Conference for Human Welfare?"

"Mr. REID. Yes, I was, and during the time that I was a member of that organization, it was a forthright, democratic, good organization, in which a number of us who were interested in the South bellered and cooperated, and when it no longer seemed to serve that end, numbers of us pulled out. I, for one, did, and enabled and worked for the setting up of the Southern Regional Council in Atlanta, Ga., with a number of others of the forward-looking people in the South."

Committee counsel then questioned Dr. Reid concerning a testimonial he made to Franz Boas at the United Nations in America dinner held under the auspices of the American Committee for Protection of Foreign Born, New York City, April 17, 1948, and Dr. Reid answered him as follows:

"Yes, I wrote a testimonial to that meeting. I see now that the American Committee for Protection of the Foreign Born—I knew that committee only in two ways: One, when I was working on my dissertation, the office provided me with some material. Franz Boas was a former teacher of mine at Columbia University, and I sent a letter of comment on his skill and my appreciation of him as a teacher, which I would have done again and again and again. I do not regard that as a subversive activity."

When questioned about a statement of the Council for African Affairs which Dr. Reid was alleged to have signed, he made the following statement:

"I have been interested in the Council for African Affairs, because it was one source from which you could get material on Africa. I do not remember signing a statement. I may have. If so, it was about problems in Africa. But it was not in any connection with anything that might have been called subversive. It was in the province of darker peoples throughout the world, I suppose."

In connection with the Scientific and Cultural Conference for World Peace and the sponsoring organization, National Council for the Arts, Sciences, and Professions, Dr. Reid told that committee that "I spoke at that conference on the subject, I think, of race discrimination, and academic freedom. I have sent to

the Government a copy of that speech, and it was that conference that led to my being asked to speak at the cultural, whatever the meeting was, that was held the next year, and it was only then that I realized that there were connections that were regarded as subversive. Therefore, I did not appear at the other. I did appear and speak at the council on academic freedom at that time on the subject of race discrimination." Dr. Reid further told the committee that he did not appear at the Scientific and Cultural Conference in New York City, March 25-27, 1949; that he sent a telegram stating his reasons for not appearing, saying "that I did not believe in the things which it seemed to be sponsoring."

During the same testimony, Dr. Reid told the committee that he knew nothing about his name appearing on a letterhead of the United States Congress Against War in a list of members of their arrangements committee. Dr. Reid testified that in June and August of 1947, he had left the South and was no longer there. "I had been a member of the advisory committee of the Southern Negro Youth Congress" he told the committee, and "many of us in Negro education in the South were interested in it. We came into it under very, oh, reliable auspices, and I served in those purposes. And it was not until years later that there was any discovery that there was any sort of Communist influence in it. I resigned from that group. I do not remember the exact time, the cause was, I told the director at the time that I did not approve of the methods that were being used in the South, and I thought that they were exploiting Negro youth by so doing it. And I was never called upon to do anything more, although the names may have remained on the letterhead."

References to and excerpts from testimony of Mr. Budenz and Dr. Reid may be found in printed Hearings Before the Select Committee To Investigate Tax-Exempt Foundations and Comparable Organizations, House of Representatives, 82d Congress, 2d session, pages 716 and 720, respectively.

GOODWIN WATSON

Member, advisory committee, Congress of Racial Equality (CORE).

PROF. GOODWIN WATSON

Conference on Equal Rights for Negroes in the Arts, held Saturday at the Pythianon, West 70th Street, Wide Discrimination Against Negroes in Art, Science, etc. (Daily Worker, Nov. 14, 1951, p. 7.)

Conference on Equal Rights for Negroes in the Arts, Science and Professions. (Daily Worker, Nov. 9, 1951, p. 8.)

GOODWIN B. WATSON, PROFESSOR OF EDUCATION, TEACHERS COLLEGE

Clipping: "Schools Failing, Educators Charge." (New York Times, Feb. 15, 1937.)

Clipping: "Educator Assails Capitalist Ideas." (Washington Star, Feb. 23, 1934.)

Clipping: "Class War on the Campus." (American Mercury, April 1937.)

Signer, petition urging discontinuance of Dies committee. (Daily Worker, Jan. 8, 1940, p. 4.)

Signer, letter to President Roosevelt protesting attacks upon Veterans of Abraham Lincoln Brigade. (Daily Worker, Feb. 21, 1940, p. 4.)

Signer, letter to Dies committee, sponsored by American Committee for Democracy and Intellectual Freedom, denouncing proposal to investigate political and social affiliations of authors of textbooks. (Daily Worker, Apr. 8, 1940, p. 2.)

Sponsor, Committee of One Thousand To Abolish House Committee on Un-American Activities Committee, 1948. (Letterhead.)

Writer for Wallace, 1943.

GOODWIN WATSON, PROFESSOR, SOCIAL PSYCHOLOGY, COLUMBIA UNIVERSITY

Stated that "The point of Russian education is to give everybody the kind of education that makes him stand on his tiptoes and stretch himself to the utmost." (Worker, Nov. 9, 1953, p. 8.)

Goodwin Watson (professor, Teachers College, Columbia University, New York City).

* The Attorney General's list.

* House Un-American Activities Committee.

Signer, statement released by Committee for Peaceful Alternatives to the Atlantic Pact, 1950 (letterhead).¹

One of 83 signers of open letter to the American people for the Bill of Rights, released by Americans for Traditional Liberties. (Daily Worker, Sept. 20, 1955, p. 4.)

Charged with championing the "objectives of the Communist conspiracy" by the Americanism Commission of the Westchester County American Legion. Part-time consultant, Guidance Center of New Rochelle, N.Y. (New York Times, Mar. 6, 1954, p. 22). See also his record published in the Firing Line of April 15, 1954, official organ of the American Legion.

Kerr subcommittee of Congress upholds finding of Committee on Un-American Activities that Goodwin Watson is unfit for Federal employment. (New York Times, Apr. 15, 1943.)

Member of the program committee of the Committee for Peaceful Alternatives to the Atlantic Pact (HUAC, report on the Communist peace offensive, pp. 143, 145).²

Signer of petition to President Truman for amnesty for convicted Communist leaders (Daily Worker, issued during August 1952).

Endorsed the International Workers Order ("Action for Unity" by Goodwin Watson, p. 22).¹

Endorsed the National Negro Congress ("Action for Unity" by Goodwin Watson, p. 0).¹

Endorsed the National Federation for Constitutional Liberties ("Action for Unity" by Goodwin Watson, p. 12).¹

Endorsed the People's Institute for Applied Religion ("Action for Unity" by Goodwin Watson, pp. 125 and 126).¹

For further endorsements of Communist fronts by Goodwin Watson, see his book, "Action for Unity."

A. J. MUSTE

Senate civil rights hearings, 1950.

Nuclear-weapons tests and A. J. Muste: For centuries, pacifists of many kinds have conducted their propaganda campaigns around the horror of war. To the actualities of war, which are bad enough, pacifists have added their own particular speculations: namely, that the next war would spell the end of civilization.

In the present era, Communists have found pacifists' activity and propaganda very much to their liking. As long as such activity affects only the peoples of non-Communist countries, Communists would like to see pacifism become the dominant mood throughout the so-called free world. Toward this end, Communists and pro-Communists give all the encouragement possible to every pacifist organization that sentimental clergymen may wish to set up in the United States.

Among the thousands of Protestant clergymen who have joined or otherwise supported the long list of Communist peace fronts during the past 40 years, one name stands out above all the others; namely, A. J. Muste. This Holland-born Presbyterian clergyman and agitator, now in his 75th year, is the undisputed dean of American leftwing activity. Muste was a delegate to the Fifth World Order Study Conference at Cleveland. Muste's credentials, if he has any, are his life-long dedication to undermining the security of his adopted land.

Two years ago, A. J. Muste got up a delegation for the purpose of "observing" the procedures of the Communist Party's 16th National Convention, February 9-12, 1957. The press was barred from the deliberations of the leading Communists, but Muste and his fellow "observers" were cordially welcomed. In their formal report to the American people, Muste's delegation found "that the sessions of the convention were democratically conducted." Whether the Communist conspirators conspired democratically or undemocratically is about as important as the color of their hair—except to the mentality of an A. J. Muste.

The work of the Muste delegation drew the following comment from Mr. J. Edgar Hoover:

"The Communists boasted of having 'impartial observers' cover the convention. However, most of these so-called impartial observers were handpicked before the convention started and were reportedly headed by A. J. Muste, who has long fronted for Communists * * *. Muste's report on the convention was biased, as could be expected."

¹ The Attorney General's list.

² House Un-American Activities Committee.

A. J. Muste has described his recent activity in the following words: "Thus in this summer of 1957 I am occupied with problems relating to the attitude of the churches toward nuclear war * * *."

Muste has been highly successful in recruiting outstanding Protestant clergymen for agitation on the subject of nuclear weapons. The following delegates to the Fifth World Order Study Conference have been involved in this type of agitation: John C. Bennett, Harold A. Bosley, Roy Burkhart, Edwin T. Dahlberg, Ralph D. Hyslop, Homer A. Jack, Louis H. Lammert, Paul L. Lehmann, John A. Mackay, Robert W. Moon, G. Bromley Oxnam, W. Harold Row, Culbert Rutenber, Walter W. Sikes, B. Julian Smith, Ralph W. Sockman, Carl D. Soule, Alfred W. Swan, and Daniel E. Taylor. To this list must be added the name of the Quaker layman, Clarence E. Pickett.

Fellowship of Reconciliation: The largest leftwing pacifist group in the United States is the Fellowship of Reconciliation. For years, A. J. Muste was the executive secretary of this organization.

The Fellowship of Reconciliation claims to have been the parent of many leftwing organizations which have worked to further the interests of the Communist conspiracy in the United States. In its official history, the fellowship has the following to say about itself: "Out of its activities and the concerns of its members and committees have grown such diverse organizations as the National Conference of Christians and Jews, the American Civil Liberties Union, the Religion and Labor Foundation, the Workers Defense League, the Committee on Militarism in Education, the Congress on Racial Equality, the National Council Against Conscription, the Society for Social Responsibility in Science, the Church Peace Mission, and most recently, the American Committee on Africa."

The Fellowship of Reconciliation is officially on record as urging its members to join "political movements which aim at the replacement of private capitalism by a system of collective ownership." This broad category is enough to include the Communist movement as well as the Socialist.

The current and official apparatus of the fellowship was well represented in the composition of the Cleveland Conference of the National Council of Churches. From the early years of the Federal Council of Churches, its personnel was extensively interlocked with that of the Fellowship of Reconciliation.

The following delegates who were present at the Cleveland Conference are currently listed as officially connected with the Fellowship of Reconciliation (FOR) in the latter's publications.

Hiel D. Bollinger, accredited representative of the Fellowship of Methodist Pacifists to the FOR.

Harold A. Bosley, member of the FOR advisory council.

Charles F. Boss, member of the FOR advisory council.

Edwin T. Dahlberg, member of the FOR advisory council.

Barton Hunter, accredited representative of the Disciples Peace Fellowship to the FOR.

Jameson Jones, editorial contributor of Fellowship, official magazine of the FOR.

A. J. Muste, secretary emeritus of the FOR.

Clarence E. Pickett, member of the FOR advisory council, winner of the Nobel Peace Prize.

Culbert G. Rutenber, member of the FOR national council.

John M. Swomley, Jr., cosecretary of the FOR.

Herman Will, Jr., member of the FOR national council.

Church Peace Mission and the Cleveland Conference: The Church Peace Mission, currently headed by A. J. Muste, was represented at the Cleveland Conference in the following delegates:

John C. Bennett, dean of Union Theological Seminary.

Harold A. Bosley, Methodist Church.

Edwin T. Dahlberg, president of the National Council of Churches.

Milton H. Hadley, Five Years Meeting of Friends.

Ralph D. Hyslop, Union Theological Seminary.

Louis H. Lammert, Evangelical and Reformed Church.

Paul L. Lehmann, Harvard Divinity School.

John A. Mackay, former moderator, Presbyterian Church, U.S.A.

Robert W. Moon, Methodist Church.

A. J. Muste, secretary emeritus, Fellowship of Reconciliation.

Clarence E. Pickett, former head, American Friends Service Committee.

W. Harold Row, Church of the Brethren.

Culbert G. Rutenber, American Baptist Convention.
 J. Harold Sherck, National Service Board for Religious Objectors.
 Walter W. Sikes, Disciples of Christ.
 Bishop B. Julian Smith, Christian Methodist Episcopal Church.
 Ralph W. Sockman, Methodist Church.
 John M. Swomley, Jr., Methodist Church.
 Herman Will, Jr., Methodist Church.

The Church Peace Mission has been specially involved with the question of nuclear-weapons tests.

1. American Forum for Socialist Education—chairman—New York Times, May 18, 1957, page 12; Daily Worker, May 18, 1957, page 1; National Guardian, February 3, 1958, page 1.

2. Appeal for Amnesty for Eleven Communist Party Leaders—signer—press release, January 13, 1953.

3. Bronx Socialist Forum—speaker—National Guardian, February 3, 1958, page 11.

4. Christmas Amnesty Plea for Communists Convicted Under the Smith Act—initiator—New York Times, December 21, 1955, page 20.

5. Church Peace Mission—signer of statement on nuclear weapons tests—press release, December 2, 1957.

6. Church Peace Mission Statement Calling for Cancellation of Nuclear Tests—signer—press release, April 21, 1958.

7. Clemency Appeal for Green and Winston—signer—New York Post, September 23, 1953.

8. Committee on Militarism in Education—member of national council—letterhead, October 1, 1955.

9. Committee for Socialist Unity—speaker at United Socialist Rally for May Day—Daily Worker, April 30, 1957, page 8.

10. Consumers National Federation—sponsor—program, December 11-12, 1957.

11. Dissent—contributing editor—letterhead, May 1958.

12. Fellowship of Reconciliation—speaker at forum—Daily Worker, May 20, 1958, page 1.

13. Fellowship of Reconciliation—secretary emeritus—letterhead, January 1953.

14. First U.S. Congress Against War, 1932—member of arrangements committee—Massachusetts hearings, page 404.

15. Greater New York Committee for a Sane Nuclear Policy—sponsor—leaflet, April 14, 1953.

16. Greater New York Emergency Conference on Inalienable Rights—speaker—program, February 12, 1940.

17. Melish Brief Amici Curiae—signer—U.S. Supreme Court, January 11, 1951.

18. Militant Labor Forum—speaker—National Guardian, March 3, 1953, page 10.

19. National Associates—sponsor of dinner-forum—program, May 25, 1952.

20. National Committee To Aid Victims of German Fascism—chairman—letterhead, July 3, 1934.

21. National Committee To Secure Justice in the Rosenberg Case—appealed for clemency—leaflet, 1953.

22. National Scottsboro Action Committee—member of executive committee—Daily Worker, May 3, 1933, page 2.

23. New York Committee for the Harold Davies MP Meeting—sponsor; speaker—letterhead, September 11, 1953.

24. New York Committee for a Sane Nuclear Policy—speaker—leaflet, April 11-19, 1953.

25. Petition to Congress to eliminate the House Committee on Un-American Activities—signer—Washington Post and Times Herald, January 7, 1959, page A8.

26. Rosenberg clemency appeal—signer of appeal to President Truman—Daily Worker, January 13, 1953, page 2.

27. Scottsboro Unity Defense Committee—participated in meeting—Daily Worker, April 18, 1933, page 2.

28. Socialist Unity Forum—speaker at symposium—Worker, January 13, 1957, page 15.

29. Statement by non-Communist observers at Communist Party Convention, stating that the convention was democratically run and assailing Eastland committee—signer—Daily Worker, February 25, 1957, page 1.

30. Symposium on socialism in America—participated in—Worker, August 26, 1956, page 4.

31. United States Congress Against War—member of arrangements committee—letterhead of National Organizing Committee, November 1, 1933.

32. Women's International League for Peace and Freedom—signer of open letter asking President Eisenhower to call off H-bomb tests—New York Times, May 7, 1950, page 21; Daily Worker, May 8, 1956, pages 1, 8.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. EASTLAND. I yield.

Mr. THURMOND. I take this opportunity to congratulate the able and distinguished Senator from Mississippi, who is the chairman of the Committee on the Judiciary of the U.S. Senate, for the valuable information he has brought to Senators and to the American people on this very timely and pertinent topic.

Mr. EASTLAND. I thank my distinguished friend from South Carolina.

Mr. President, the Subcommittee on Internal Security of the Committee on the Judiciary, by special resolution, has been instructed to investigate the Communist conspiracy in our country and the administration of the Internal Security Act. From investigation and examination of the facts and records there can be little doubt, in my judgment, but that this group is an arm of the Communist conspiracy. They are agents of worldwide communism, who sow strife and discord in this country. A Communist movement must live with decisions that must be made by our Government. They desire to hurt our Government in the eyes of countries in other parts of the world who do not realize what the real conditions in the Southern States are.

APPENDIX VII

[Excerpt from the Congressional Record of Feb. 23, 1956]

SUBVERSIVE CHARACTER OF NAACP

The SPEAKER pro tempore (Mr. Marshall). Under previous order of the House, the gentleman from Arkansas [Mr. Gathings] is recognized for 45 minutes.

Mr. GATHINGS. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include citations of the House Committee on Un-American Activities and other pertinent data.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. GATHINGS. Mr. Speaker, on February 3, the Memphis Commercial Appeal carried an article written by Paul Malloy quoting from an interview with Thurgood Marshall, Negro special counsel for the National Association for the Advancement of Colored People. In the article it was stated, and I quote:

"The meeting sponsored by the Memphis NAACP chapter heard Marshall angrily deny claims his organization is Communist tainted."

Marshall said:

"Edgar Hoover, boss of the FBI, says we are not subversive. Our conventions have been addressed by Harry Truman, and President Eisenhower and Vice President Richard Nixon."

Subsequently, on Tuesday, February 21, 1956, Frederick Woltman, Scripps-Howard staff writer, writing in the Washington Daily News, stated, and I quote:

"The country's largest Negro organization, which has been accused of working in league with Communists by white citizens councils in the South, has taken steps to head off the move.

"Each of the 1,300 local branches and youth councils of the National Association for the Advancement of Colored People (NAACP) has received a stern warning that the Communists are making intensive efforts to infiltrate the nationwide civil rights assembly here in Washington March 4-6.

"Roy Wilkins, NAACP executive secretary, directed units of his organization to exercise special care in selecting delegates to avoid any possibility that the assembly will be captured by leftwing individuals and groups.

"'Otherwise,' Mr. Wilkins said, 'The whole civil rights movement will receive a black eye and we will get very little attention, if any, by Congress.'

"The Communist Party in the Daily Worker last week officially called for support of the mass lobby."

Which of these statements are we to believe—the statement of Thurgood Marshall, made in Memphis on February 3, which would lead the people of the country to believe that the NAACP is free of subversive influences, or are we to believe the article of Mr. Woltman dated February 21? It seems to me that if the NAACP is free of subversive influences on February 3, there would be no need to issue a warning about intensive efforts to infiltrate on February 21.

The issue of the Daily Worker which Mr. Woltman refers to in his article is dated Tuesday, February 14. In it an editorial appears, and I quote:

"The great debate will go on. But the Negro people and other democratic forces will not lose sight of the primary requirement for action: Demand that Eisenhower and Brownell act to enforce civil rights in the South. Support the mass lobby for civil rights in Washington March 4, 5, and 6."

Roy Wilkins, NAACP executive secretary, would have the people of the Nation believe that the NAACP has just been marked as a Communist target for infiltration.

In 1925 the Communist line as published by the Daily Worker Publishing Co. in the official report of the American Communist Party's fourth national convention held in Chicago, Ill., August 21-30, the party was directed to penetrate the NAACP.

"Even in this organization (NAACP), under present circumstances, it is permissible and necessary for selected Communists (not the party membership as a whole) to enter its conventions and to make proposals calculated to enlighten the Negro masses under its influence as to the nature and necessity of the class struggle."

The report reads.

Now, let us look at this fellow Wilkins. He seems to be greatly disturbed about this issue of Communist infiltration of the NAACP because of its effect being the whole civil-rights movement will receive a black eye. Here is the record from the files of the Committee on Un-American Activities, United States House of Representatives:

"February 13, 1956.

"Subject: Roy Wilkins, national administrator and executive secretary, NAACP, 1954.

"The public records, files and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"The Daily Worker of July 15, 1949 (p. 3), in an article datelined Los Angeles, July 14, reported that Roy Wilkins, acting secretary of the National Association for the Advancement of Colored People, told a press conference . . . he voted for Benjamin J. Davis, Negro Communist, at the last election. Davis is now on trial for his Communist beliefs, along with 11 other national Communist Party leaders in New York City. Wilkins, however, refused any comment on the trial itself.' The same information appeared in the Daily People's World of July 13, 1949 (p. 1).

"Mr. Wilkins was a member of the national committee, International Juridical Association, as was shown on the leaflet entitled 'What Is the IJA' and a letterhead of the group dated May 18, 1942; he was identified as being from New York State. The special Committee on Un-American Activities cited the International Juridical Association as 'a Communist front and an offshoot of the International Labor Defense' report 1311 of March 29, 1944; the Committee on Un-American Activities cited the organization as having 'actively defended Communists and consistently followed the Communist Party line' (report dated September 17, 1950, p. 12).

"A letterhead of the Conference on Pan American Democracy dated November 16, 1938, contains the name of Roy Wilkins in a list of sponsors of that group, cited by the Attorney General as subversive and Communist (press releases of June 1 and September 21, 1948; also included on his consolidated list released April 1, 1954); the special Committee on Un-American Activities cited the Conference as a Communist-front organization which defended Carlos Luis Prestes, a

Brazilian Communist leader and former member of the executive committee of the Communist International (report 1811 of March 29, 1944; also cited in report dated June 25, 1942).

"According to the Daily Worker of September 24, 1937 (p. 6), Roy Wilkins was one of the sponsors of a joint meeting of the American League Against War and Fascism and the American Friends of Chinese People.

"The American League Against War and Fascism was cited by the Attorney General as subversive and Communist (press releases of December 4, 1947, and September 21, 1948; also consolidated list of April 1, 1954); it had previously been cited by the Attorney General as a 'Communist-front organization' (in re Harry Bridges, May 28, 1942, p. 10); and as 'established in the United States in an effort to create public sentiment on behalf of a foreign policy adapted to the interests of the Soviet Union.' (Congressional Record, vol. 88, pt. 6, p. 7442.) The special Committee on Un-American Activities cited the American League * * * as 'completely under the control of Communists' (reports of March 29, 1944; January 8, 1939; January 8, 1940; and June 25, 1942). American Friends of the Chinese People was also cited by the special Committee on Un-American Activities as a Communist-front organization (report of March 29, 1944).

"The Daily Worker of January 23, 1937 (p. 8), reported that Roy Wilkins spoke for the International Labor Defense in Brooklyn. The International Labor Defense was cited by the Attorney General as the legal arm of the Communist Party and as subversive and Communist. (Congressional Record, vol. 88, pt. 6, p. 7446; and press releases of June 1 and September 21, 1948; also included on consolidated list released April 1, 1954.) The special Committee on Un-American Activities cited the ILD as the legal arm of the Communist Party (reports of January 8, 1939; January 8, 1940; June 25, 1942; and March 29, 1944); the Committee on Un-American Activities also cited the group in a report released September 2, 1947.

"Roy Wilkins spoke at a New York State convention of the Workers Alliance, as reported in the Daily Worker of February 11, 1939 (p. 1), and February 7, 1939 (p. 5). The Workers Alliance was cited as a Communist-penetrated organization and later as subversive and Communist by the Attorney General (Congressional Record, vol. 88, pt. 6, p. 7448, and press releases of December 4, 1947, and September 21, 1948; included on consolidated list released April 1, 1954). The special committee cited the Workers Alliance as among the successes in the Communist-front movements (report dated January 8, 1939; also cited in reports of January 8, 1940; June 25, 1942; and March 29, 1944).

"In an article by Blaine Owen which appeared in the Daily Worker of June 17, 1936 (p. 1), entitled '1936 Communist Party Convention Significant to Negroes,' he stated: 'The greatest significance undoubtedly attends the 1936 convention of the Communist Party,' Roy Wilkins, assistant national secretary of the National Association for the Advancement of Colored People and editor of the Crisis, said today. 'It must be patent to anyone who has kept track of the news that the political leftwing—and especially the Communist program—has been an important factor in bringing the plight of the Negro people, along with other underprivileged groups, more sharply to the attention of those parties which have been in power. * * * Nevertheless, there is no doubt in my mind that the program and demands of the Communists have had a very wholesome effect on the Negro people themselves. They have been emboldened by the basic and basically right demands put forth.' This, it was pointed out to Wilkins, is what the Communist Party means when it bases its entire campaign on the proposal for and toward the realization of the broad People's Front. He nodded."

To understand the civil rights movement as propagated by the NAACP, I feel that a person must know something of the history and development of the American Negro movement here in the United States subsequent to the Reconstruction period.

In 1895, Booker T. Washington, president of Tuskegee Institute, Alabama, was selected to speak for the southern Negro at the Atlanta Exposition. Dr. Washington stated his position clearly and with great effect. I would like to quote several paragraphs from Booker T. Washington's address which I feel sums up the entire philosophy enunciated by him and his group:

"The wisest among my race understand that the agitation of questions of social equality is the extreme folly, and that progress in the enjoyment of all the privileges that will come to us must be the result of severe and constant struggle rather than of artificial forcing. No race that has anything to contribute to

the markets of the world is long in any degree ostracized. It is important and right that all privileges of the law be ours, but it is vastly more important that we be prepared for the exercises of these privileges. The opportunity to earn a dollar in a factory just now is worth infinitely more than the opportunity to spend a dollar in an opera house."

Also:

"Cast it down in agricultural, mechanics, in commerce, in domestic service, and in the professions. And in this connection it is well to bear in mind that whatever other sins the South may be called to bear, when it comes to business, pure and simple, it is in the South that the Negro is given a man's chance in the commercial world, and in nothing is this exposition more eloquent than in emphasizing this chance. Our greatest danger is that in the great leap from slavery to freedom we may overlook the fact that the masses of us are to live by the productions of our hands, and fail to keep in mind that we shall prosper in proportion as we learn to dignify and glorify common labor and put brains and skill into the common occupations of life; shall prosper in proportion as we learn to draw the line between the superficial and the substantial, the ornamental gewgaws of life and the useful. No race can prosper till it learns that there is as much dignity in tilling a field as in writing a poem. It is at the bottom of life we must begin, and not at the top. Nor should we permit our grievances to overshadow our opportunities."

There was an entirely different school of thought, however, which was headed by Dr. W. E. B. DuBois, of Atlantic University. Dr. DuBois was a very bitter critic of the Washingtonian movement, which he referred to as "the Tuskegee machine." Dr. DuBois was the leader of the left-wing element of American Negro Society which, in 1905, met at Niagara Falls, N.Y., and devised plans whereby complete social equality could be attained. This group was subsequently called the Niagara movement.

The Niagara movement was not very effective, because it was hampered by lack of funds. However, in 1908, a race riot occurred in Springfield, Ill., the home of Abraham Lincoln, which aroused the interest of the dormant abolitionist movement in the North. As a result of the feeling which was aroused by the Springfield race riots, William English Walling made a strong appeal for the emancipation of the American Negro in the fields of political and social equality. This appeal later became the clarion for the formation of a new organization, called National Association for the Advancement of Colored People, which joined the white liberals of the northern abolitionist traditions with the Negro liberals of the Niagara movement.

Dr. DuBois was one of the founding fathers of the present-day NAACP, which was founded in 1909. This Dr. DuBois, who broke away from the Booker T. Washington group, was the leader of the Niagara movement. His record of citations from the House Committee on Un-American Activities takes up nine pages single spaced:

"FEBRUARY 21, 1956.

"Subject: Dr. W. E. B. DuBois, founder NAACP, leader Niagara movement.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"The Worker (Sunday edition of the Communist publication, the Daily Worker) on April 27, 1947, reported that 'almost 100 Negro leaders, headed by W. E. B. DuBois, Paul Robeson, and Roscoe Dunjee, last week called upon President Truman "to repudiate decisively" steps to "illegalize the Communist Party." * * * As Negro Americans * * * we cannot be unmindful that this proposal to outlaw the Communist Party comes precisely when our Federal Government professes grave concern over the democratic rights of peoples in far distant parts of the world' (p. 8 of the Worker).

"Dr. DuBois sponsored a statement attacking the arrest of Communist Party leaders (Daily Worker, August 23, 1948, p. 8); he sponsored a 'Statement by Negro Americans' on behalf of the Communist leaders (the Worker of August 29, 1948, p. 11); he filed a brief in the Supreme Court on behalf of the 12 Communist leaders (Daily Worker, January 9, 1949, p. 8); he signed statements on behalf of Communist leaders, as shown in the following sources: Daily Worker, January 17, 1949 (p. 8); February 28, 1949 (p. 9); Daily People's World, May 12, 1950 (p. 12); Daily Worker, September 19, 1950 (p. 2); and in 1952, he signed an

appeal to President Truman, requesting amnesty for leaders of the Communist Party convicted under the Smith Act (Daily Worker, December 10, 1952, p. 4); also an appeal on their behalf addressed to President Eisenhower (Daily People's World, November 17, 1954, p. 2). Dr. DuBois was one of the sponsors of the National Non-Partisan Committee To Defend the Rights of the 12 Communist leaders, as shown on the back of their letterhead dated September 9, 1949.

"A statement on behalf of Eugene Dennis, a Communist, contained the signature of Dr. DuBois, identified as an educator (Daily Worker of May 5, 1950, p. 2); he signed a telegram of the National Committee To Win Amnesty for Smith Act Victims, greeting Eugene Dennis on his 48th birthday (Daily Worker, August 11, 1952, p. 3); Eugene Dennis was formerly secretary general of the Communist Party.

"The Daily Worker of August 2, 1949 (p. 2), disclosed that Dr. DuBois endorsed Benjamin J. Davis, Jr., well-known Communist leader; he was honorary chairman of the Committee To Defend V. J. Jerome, chairman, cultural commission of the Communist Party, United States of America (letterhead dated June 24, 1952). A leaflet of the Civil Rights' Congress (dated March 20, 1947) named Dr. DuBois as having defended Gerhart Eisler, Communist. He was one of the sponsors of the Committee To Defend Alexander Tractenberg, former member of the national committee of the Communist Party (Daily People's World of April 17, 1952, p. 7; and the Daily Worker of April 18, 1952, p. 6).

"The Daily Worker of February 16, 1948 (p. 16), reported that some '80 leading New York civic leaders, trade unionists, and professionals yesterday joined Dr. William Jay Schleffelin, president emeritus of the citizens union, to demand the prompt seating of Simon W. Gerson to the city council seat made vacant by the death of Councilman Peter V. Cacchione, Brooklyn Communist. * * * The civic leaders' statement is directed to Mayor O'Dwyer and city council majority leader Joseph T. Sharkey. It is a reprint of a letter to the New York Times by Dr. Schleffelin in which he charges that the real reason for the refusal to seat Gerson (sic. Gerson) is 'the current anti-Communist hysteria.'" Dr. DuBois was named as having signed the statement. (See also advertisement in New York Times of February 19, 1948, p. 13.)

"Dr. DuBois was a member of a committee formed to protest the arrest of Pablo Neruda, Communist Chilean senator and world famous poet; he signed a statement of the organization in support of Neruda. (Daily Worker of April 7, 1948, p. 13, and April 10, 1950, p. 2, respectively.) He was sponsor of a reception and testimonial for Harry Sacher, defense attorney for the Communist leaders. (Daily Worker of December 5, 1949, p. 2.)

"When Earl Browder (then general secretary, Communist Party) was in Atlanta Penitentiary serving a sentence involving his fraudulent passports, the Communist Party's front which agitated for his release was known as the Citizens' Committee to Free Earl Browder (special Committee on Un-American Activities in Report 1311 of March 29, 1944); the Attorney General of the United States had cited the Citizens' Committee as Communist (Congressional Record, vol. 88, pt. 6, p. 7447, and press release of Apr. 27, 1949). Dr. DuBois was a member of the Citizens' Committee * * * in 1942, as shown on their letterhead dated February 11, 1942; he sponsored a dinner of the group, according to the Daily Worker of February 5, 1942, and signed the call to the National Free Browder Congress, as shown in the Daily Worker of February 25, 1942, pages 1 and 4.

"A 1950 letterhead of the American Committee for Protection of Foreign Born carries the name of Dr. W. E. B. DuBois in a list of sponsors of that organization; the same information appears on an undated letterhead of the group, distributing a speech of Abner Green at the conference of December 2-3, 1950; a letterhead of the Midwest Committee for Protection of Foreign Born dated April 30, 1951, names him as a national sponsor of the organization. He signed the group's statement opposing the Hobbs bill (Daily Worker, July 25, 1950, p. 4); he signed their statement opposing denaturalization (Daily Worker of August 10, 1950, p. 5); and signed a telegram prepared and dispatched by the organization to the Attorney General of the United States, protesting holding nine non-citizens without bail under the McCarran Act. (Daily Worker of November 24, 1952, p. 3.) He was also listed in the Daily Worker of October 21, 1954 (p. 2) as one of 65 sponsors of the National Conference to Defend the Rights of Foreign Born Americans, to be held December 11 through 12 in New York City by the American Committee for Protection of Foreign Born.

"The special committee cited the American Committee for Protection of Foreign Born as 'one of the oldest auxiliaries of the Communist Party in the United States' (report of March 20, 1944; also cited in report of June 25, 1942); the Attorney General cited the organization as subversive and Communist (press releases of June 1 and September 21, 1948; also redesignated pursuant to executive order 10450, see consolidated list of April 1, 1954).

"For years, the Communists have put forth the greatest efforts to capture the entire American Labor Party throughout New York State. They succeeded in capturing the Manhattan and Brooklyn sections of the American Labor Party but outside of New York City, they have been unable to win control' (Special Committee's Report 1311 of March 20, 1944). Dr. DuBois spoke at a State conference of the American Labor Party (Daily Worker of December 12, 1950, p. 5); he spoke at a dinner, April 18, opening the presidential campaign in New York City (Daily Worker of April 14, 1952, p. 8, an advertisement; and the Daily Worker of April 21, 1952, p. 1); he spoke at an election rally in Madison Square Garden, May 13, held under the auspices of the American Labor Party (Daily Worker of May 8, 1952, p. 8, an advertisement; and May 14, 1952, p. 1); and he spoke at an election rally in Madison Square Garden, October 27 (Daily Worker of October 22, 1952, p. 8, an advertisement; and October 29, 1952, p. 2).

"The Daily Worker of March 20, 1948 (p. 7), named Dr. DuBois as a member of the Executive Board and of the Policy Committee, Council on African Affairs; he signed the council's petition to the United Nations as shown in the Daily Worker of June 5, 1950 (p. 4); drafted their statement against the policy of the United States in Korea (Daily Worker of July 25, 1950, p. 3) and spoke at the Council's conference on April 24 at Friendship Baptist Church in New York City (Daily Worker, April 23, 1954, p. 8 and April 26, 1954, p. 6). The Attorney General cited the Council on African Affairs as subversive and Communist (press releases of December 4, 1947, and September 21, 1948); also redesignated—consolidated list of April 1, 1954.

"The Attorney General cited the Jefferson School of Social Science as an 'adjunct of the Communist Party' (press release of December 4, 1947); also redesignated—consolidated list of April 1, 1954); the Special Committee reported that 'at the beginning of the present year, the old Communist Party Workers School and the School for Democracy were merged into the Jefferson School of Social Science.' (Report 1311 of March 20, 1944.) Dr. DuBois was honored at the Jefferson School, as shown in the Daily Worker on February 1, 1951 (p. 2); it was announced in the Daily Worker on January 2, 1952 (p. 7), that Dr. DuBois was scheduled to conduct a seminar on 'Background of African Liberation Struggles' at the Jefferson School; the January 20, 1952, issue of the same publication (p. 7), named him as a faculty member of that school, as did the Worker, October 4, 1953 (p. 10) and the Daily Worker, October 14, 1953 (p. 8)—advertisement. He signed statements on behalf of the Jefferson School as shown in the Daily Worker, November 25, 1953 (p. 2) and the Daily People's World, July 6, 1954 (p. 7).

"In a report of the special committee, dated March 20, 1944, the National Council of American-Soviet Friendship was cited as having been, in recent months, the Communist Party's principal front for all things Russian (report dated March 20, 1944); the organization has been cited as subversive and Communist by the Attorney General (press releases of December 4, 1947, and September 21, 1948; also redesignated consolidated list of April 1, 1954). Dr. DuBois signed a statement of the national council in 1947 (Daily Worker, October 17, 1947, p. 4); he signed the organization's statement protesting the Iron Curtain, as reported in the Daily People's World on May 20, 1948 (p. 5); he signed a statement of the council, praising Henry Wallace's Open Letter to Stalin in May 1948 (from a pamphlet entitled 'How To End the Cold War and Build the Peace,' p. 4); he signed their statement calling for a conference with the Soviet Union (Daily Worker, June 21, 1948, p. 3); he signed their Roll Call for Peace (Daily Worker of August 31, 1948, p. 5); he sent greetings through the national council on the 31st anniversary of the Russian Revolution (Daily Worker, November 10, 1948, p. 11); he signed the council's appeal to the United States Government to end the cold war and arrange a conference with the Soviet Union (leaflet entitled 'End the Cold War—Get Together for Peace,' dated December 1948); he spoke at the Congress on American-Soviet Relations, December 3-5, 1949, arranged by the national council and signed the council's letter to the American people, urging that a unified democratic Germany be established (Daily People's World, August 13, 1952, pp. 4 and 6).

"A letterhead of the Conference on Peaceful Alternatives to the Atlantic Pact, dated August 21, 1949, lists the name of Dr. W. E. B. DuBois as having signed an open letter of the organization, addressed to Senators and Congressmen, urging defeat of President Truman's arms program; he answered a questionnaire of the Committee for a Democratic Far Eastern Policy in favor of recognition of Chinese Communist Government, as shown in Far East Spotlight for December 1949-January 1950 (p. 23).

"The Conference for Peaceful Alternatives to the Atlantic Pact was cited as a meeting called by the Daily Worker in July 1949, to be held in Washington, D.C., and as having been instigated by 'Communists in the United States (who) did their part in the Moscow campaign' (Committee on Un-American Activities in Report 378 on the Communist 'Peace' Offensive dated April 1, 1951). The Committee for a Democratic Far Eastern Policy has been cited as Communist by the Attorney General (press release of April 27, 1940); also redesignated-consolidated list of April 1, 1954.

"A page of signatures from the Golden Book of American Friendship with the Soviet Union, 'sponsored by American friends of the Soviet Union, and signed by hundreds of thousands of Americans,' was published in the November 1937 issue of Soviet Russia Today (p. 79); the Golden Book was to be presented to President Kalinin at the 20th anniversary celebration. The page carried the title, 'I hereby inscribe my name in greeting to the people of the Soviet Union on the 20th anniversary of the establishment of the Soviet Republic,' and a facsimile of the name. W. E. B. DuBois, appeared on that page.

"The Golden Book of American Friendship was cited as a 'Communist enterprise' signed by 'hundreds of well-known Communists and fellow travelers' (Special Committee on Un-American Activities in Report 1311 of March 29, 1944).

"A letter head of the New York Committee To Win the Peace, dated June 1, 1946, contains the name of W. E. B. DuBois in a list of New York committee members. The National Committee To Win the Peace, with which the New York committee is affiliated, was cited as subversive and Communist by the United States Attorney General. (Press releases of December 4, 1947, and September 21, 1948; also redesignated consolidated list of April 1, 1954.)

"Dr. DuBois sponsored a petition of the American Council for a Democratic Greece, as disclosed by the Daily People's World of August 23, 1948 (p. 2); he signed a statement of the same organization, condemning the Greek Government, as reported in the Daily Worker of September 2, 1948 (p. 7). The American Council for a Democratic Greece has been cited as subversive and Communist, an organization formerly known as the Greek-American Council (Attorney General of the United States in press releases of June 1 and September 21, 1948); also redesignated—consolidated list of April 1, 1954.

"Dr. DuBois was a sponsor of a conference of the National Council of Arts, Sciences, and Professions, October 9-10, 1948, as shown in a leaflet entitled 'To Safeguard These Rights,' published by the Bureau of Academic Freedom of the National Council; a letterhead of the National Council (received for files January 1949) named him as a member-at-large of that organization; he was named as vice chairman of the group on the leaflet, Policy and Program Adopted by the National Convention, 1950; a letterhead of the same organization's southern California chapter, dated April 24, 1950, lists him as a member-at-large of the national council; he was elected vice chairman of the group in 1950 (Daily Worker, May 1, 1950, p. 12); a letterhead of the group dated July 28, 1950, names him as vice chairman of the group; he endorsed a conference on equal rights for Negroes in the arts, sciences, and professions sponsored by the New York Council of the Arts, Sciences, and Professions (Daily Worker, November 9, 1951, p. 7); the call to the conference contained the same information. A letterhead of the national council, dated December 7, 1952, named him as vice chairman.

"The call to a Scientific and Cultural Conference for World Peace, issued by the National Council of the Arts, Sciences, and Professions for New York City, March 25-27, 1949, as well as the conference program (p. 12), and the Daily Worker of February 21, 1949 (p. 9), named Dr. DuBois as one of the sponsors of that conference; he was a member of the program committee of the conference, honorary chairman of the panel at cultural and scientific conference (program, p. 7), and spoke on the Nature of Intellectual Freedom at that conference (p. 78 of the edited report of the conference entitled 'Speaking for Peace').

"The National Council of the Arts, Sciences, and Professions was cited as a Communist-front organization by the Committee on Un-American Activities in its review of the Scientific and Cultural Conference for World Peace, released:

April 19, 1949; in the same review, the Scientific and Cultural Conference was cited as a Communist front which 'was actually a supermobilization of the inveterate wheelhorses and supporters of the Communist Party and its auxiliary organizations.'

'The Daily People's World of October 28, 1947 (p. 4), named Dr. DuBois as one of the sponsors of a national conference of the Civil Rights Congress in Chicago, November 21-23, 1947; he sponsored their Freedom Crusade (Daily Worker, December 15, 1948, p. 2); the Call to a Bill of Rights Conference, called by the Civil Rights Congress, for July 16-17, 1949, in New York City, named him as one of the sponsors of that conference; the program of the National Civil Rights Legislative Conference, January 18-19, 1949, called by the Civil Rights Congress, lists him as one of the conference sponsors; he was chairman of a conference of the Congress, as reported in the Worker of January 2, 1949 (p. 5); Dr. DuBois was defended by the Civil Rights Congress (Daily Worker, February 13, 1951, p. 3); he signed the organization's open letter to J. Howard McGrath, United States Attorney General, on behalf of the four jailed trustees of the ball fund of the Civil Rights Congress of New York (advertisement 'paid for by contributions of signers' which appeared in the Evening Star on October 30, 1951, p. A-7); he participated in the organization's sixth anniversary dinner in New York City, March 26, 1952 (Daily Worker, March 28, 1952, p. 4).

'The Civil Rights Congress was formed in 1946 as a merger of two other Communist-front organizations, the International Labor Defense and the National Federation for Constitutional Liberties; it is 'dedicated not to the broader issues of civil liberties, but specifically to the defense of individual Communists and the Communist Party' and 'controlled by individuals who are either members of the Communist Party or openly loyal to it' (Rept. 1115 of the Committee on Un-American Activities, dated September 2, 1947); the Attorney General cited the congress as subversive and Communist (press releases of December 4, 1947, and September 21, 1948); also redesignated—consolidated list of April 1, 1954.

'Dr. DuBois spoke in Washington, D.C., on May 9, 1947, under the auspices of the Washington Book Shop, as shown by a leaflet of the Book Shop, cited as subversive and Communist by the Attorney General; it had previously been cited by the Attorney General as follows: 'Evidence of Communist penetration or control is reflected in the following: Among its stock the establishment has offered prominently for sale books and literature identified with the Communist Party and certain of its affiliates and front organizations' (press releases of December 4, 1947, and September 21, 1948; also redesignated—consolidated list of April 1, 1954; and the Congressional Record, vol. 88, pt. 6, p. 7447). The special committee cited the Washington Book Shop as a Communist-front organization (report of March 29, 1944).

'The Workers Book Shop catalog for 1948 (p. 5), advertised Dr. DuBois' *The World and Africa* for sale; the 1948-50 catalog (p. 11) advertised his *Black Folk Then and Now*; the Worker for March 1, 1953 (p. 16), carried an advertisement of Dr. DuBois' books, *The Battle for Peace and Black Reconstruction* on sale at the Workers Bookshop, New York City. The Workers Book Shops are a chain of Communist bookshops which are official outlets for Communist literature.

As shown on the following sources, Dr. DuBois was a member of the Advisory Council of Soviet Russia Today: Letterhead of the publication dated September 8, 1947; a letterhead of September 30, 1947; and an undated letterhead received April 1948. The Daily People's World of November 6, 1952 (p. 7), reported that Dr. DuBois had written an article for the November issue of *New World Review*; and his article entitled 'Normal United States-China Relations' appeared in the issue of August 1954 (pp. 13-15). He was also shown by the Daily Worker of October 20, 1954 (p. 7), as one of those who attended the annual banquet held by *New World Review* on October 14 at which special tribute was paid to Mr. and Mrs. Paul Robeson. *Soviet Russia Today* has been cited as a Communist-front publication by the special committee in reports of March 20, 1944, and June 25, 1942; the Committee on Un-American Activities also cited it as a Communist-front publication in a report dated October 23, 1949. *Soviet Russia Today* changed its name to *New World Review*, effective with the March 1951 issue.

'The Daily Worker of July 6, 1951 (p. 7), reported that Dr. DuBois was author of the pamphlet, *I Take My Stand for Peace*, published by the New Country Publishers, official Communist Party publishing house which has pub-

lished the works of William Z. Foster and Eugene Dennis, Communist Party chairman and executive secretary, respectively. (Committee on Un-American Activities in its report of May 11, 1948).

"In 1947 and 1948, Dr. DuBois was contributing editor on the staff of New Masses magazine and later of Masses and Mainstream. (New Masses, July 22, 1947, p. 2; Masses and Mainstream, March 1948, vol. 1, No. 1; and issue of August 1950, p. 1; June 1954, inside front cover.) He contributed articles to the following issues of New Masses and Masses and Mainstream: New Masses for September 10, 1946 (p. 3) and June 10, 1947 (p. 20); Masses and Mainstream for April 1951 (pp. 10-16); and February 1952 (pp. 8-14).

"In 1940, Dr. DuBois signed New Masses letter to President Roosevelt as shown in New Masses for April 2, 1940 (p. 21); he was honored at a dinner in New York City, January 14, 1946, arranged by New Masses and at which awards were made for greater interracial understanding (Daily Worker of January 7, 1946, p. 11, cols. 1 and 2); the endorsed New Masses, as reported in the Daily Worker of April 7, 1947 (p. 11); he sponsored a plea for financial support of New Masses, as disclosed in the issue of that publication for April 8, 1947 (p. 9); he received the New Masses award for his contribution in promoting democracy and interracial unity at the publication's second annual awards dinner (New Masses of November 18, 1947, p. 7); the February 1953 issue of Masses and Mainstream carried a chapter from Dr. DuBois' book, The Soul of Black Folk, written 50 years ago (Daily Worker, February 23, 1953, p. 7); he was author of In Battle for Peace, described as the story of his 83d birthday, and which was published by Masses and Mainstream (the Daily Worker of June 18, 1952, p. 7; Daily People's World of September 17, 1952, p. 7; the Daily Worker of September 23, 1952, p. 7; and the Worker of December 21, 1952, p. 7).

"The Attorney General of the United States cited New Masses as a Communist periodical (Congressional Record, vol. 88, pt. 6, p. 7448); the special committee cited it as a nationally circulated weekly journal of the Communist Party. (Report of March 29, 1944; also cited in reports of January 8, 1939 and June 25, 1942.) Beginning with the March 1948 issue, New Masses and Mainstream (Marxist quarterly) consolidated into what is now known as Masses and Mainstream, with the announcement that 'here, proudly, in purpose even if not in identical form, is a magazine that combines and carries forward the 37-year-old tradition of New Masses and the more recent literary achievement of Mainstream. We have regrouped our energies, not to retire from the battle but to wage it with fresh resolution and confidence' (Masses and Mainstream for March 1948, p. 3).

"A letterhead of the Committee To Secure Justice in the Rosenberg Case, dated March 15, 1952, carried the name of Dr. W. E. B. DuBois in a list of sponsors; he joined in a request of that committee for a new trial for Ethel and Julius Rosenberg (Daily Worker of June 12, 1952, p. 6); he participated in a rally October 23 in New York City, to demand clemency for the Rosenbergs (Daily Worker, Oct. 27, 1952, p. 8); he signed an amicus curiae brief presented to Supreme Court in Washington, D.C., urging a new trial for the Rosenbergs (Daily Worker of November 10, 1952, p. 3; and the Daily People's World of November 13, 1952, p. 8). He wrote an article entitled 'A Negro Leader's Plea To Save Rosenbergs' (The Worker of November 16, 1952, p. 3M); and the Daily Worker of January 21, 1953 (p. 7), reported that he had urged clemency for the Rosenbergs.

"The Daily Worker of April 11, 1949 (p. 5), reported that Dr. DuBois was a member of the Sponsoring Committee of the World Peace Congress in Paris; he was cochairman of the American Sponsoring Committee of the Congress, as disclosed on a leaflet entitled 'World Congress for Peace, Paris,' April 20-23, 1949, he was proposed as a candidate for the World Peace Prize, awarded by the World Peace Congress (Daily People's World of December 7, 1951, p. 4); he was a member of the Executive Committee of the World Peace Congress (Daily Worker of September 14, 1950, p. 5); he was one of the sponsors of the Second World Peace Congress in Sheffield, England (Daily Worker of October 19, 1950, p. 3); he was elected to the Presiding Committee of the World Peace Congress (Daily Worker of November 17, 1950, p. 1); he was a member of the World Peace Council of that Congress (Daily Worker of November 24, 1950, p. 9); a mimeographed letter dated December 1, 1950, contains his name in a list of sponsors of the American Sponsoring Committee for Representation at the World Peace Congress.

"Dr. DuBois was a member of the United States Sponsoring Committee of the American Intercontinental Peace Conference (Daily Worker of December 28,

1951, p. 2, and February 6, 1952, p. 2); the Peace Conference was called by the World Peace Council, formed at the conclusion of the Second World Peace Congress in Warsaw; he was awarded the International Peace Prize for 'six world figures' by the World Peace Council (Daily People's World of January 29, 1953, p. 7; the Worker of February 8, 1953, p. 5; and Daily People's World, November 25, 1953, p. 4). He awarded the Stalin Peace Prize for 1953 to Howard Fast in ceremonies held in the Hotel McAlpin in April 1954. (See Daily Worker, April 26, 1954, pp. 3 and 6 and the Worker, May 9, 1954, p. 9.)

"The Daily Worker of June 20, 1950 (p. 2), reported that Dr. DuBois signed the World Peace Appeal; the same information appears on an undated leaflet of the enterprise, received by this committee September 11, 1950. A mimeographed list of individuals who signed the Stockholm World Appeal To Outlaw Atomic Weapons, received for filing October 23, 1950, contains the name of Dr. DuBois. He was Chairman of the Peace Information Center where the Stockholm peace petition was made available. (Daily Worker of May 23, 1950, p. 2; and Aug. 16, 1950, p. 5.)

"The World Peace Congress which was held in Paris, France, April 20-23, 1949, was cited as a Communist front among the 'peace' conferences which 'have been organized under Communist initiative in various countries throughout the world as part of a campaign against the North Atlantic Defense Pact' (Committee on Un-American Activities in reports of April 19, 1949; July 13, 1950; and April 1, 1951). The World Peace Council was formed at the conclusion of the Second World Peace Congress in Warsaw and was 'heralded by the Moscow radio as the expression of the determination of the peoples to take into their own hands the struggle for peace.' (Committee on Un-American Activities in a report dated April 1, 1951.)

"The World Peace Appeal was cited as a petition campaign launched by the Permanent Committee of the World Peace Congress at its meeting in Stockholm, March 16-19, 1950; it 'received the enthusiastic approval of every section of the international Communist hierarchy' and was 'lauded in the Communist press, putting every individual Communist on notice that he "has the duty to rise to this appeal."' (Committee on Un-American Activities in its report of April 1, 1951.)

"The American Peace Crusade, organized in January 1951, was cited as an organization which 'the Communists established as a new instrument for their "peace" offensive in the United States' (Committee on Un-American Activities in its reports of February 19, 1951, and April 1, 1951); Dr. DuBois was one of the sponsors of the crusade (Daily Worker of February 1, 1951, p. 2); minutes of the sponsors meeting which was held in Washington, D.C., March 15, 1951 (p. 4), named him as one of the initiators of the crusade and also as having been proposed as cochairman of that meeting; he was a sponsor of the American People's Congress and Exposition for Peace, which was held in Chicago, June 29-July 1, 1951, called by the American Peace Crusade to advance the theme of world peace (Daily Worker, April 22, 1951, p. 2; May 1, 1951, p. 11; the American Peace Crusade, May 1951, pp. 1 and 4; the Daily Worker of May 9, 1951, p. 4; Daily Worker of June 11, 1951, p. 2; a leaflet of the congress; Daily Worker of July 1, 1951, p. 3; a leaflet entitled 'An Invitation to American Labor to Participate in a Peace Congress'; the call to the American People's Congress; the Daily Worker of July 3, 1951, p. 2). He signed a petition of the crusade, calling on President Truman and Congress to seek a big-power pact (Daily Worker, February 1, 1952, p. 1); he attended a meeting of Delegates Assembly for Peace, called by the crusade and held in Washington, D.C., April 1 (Daily Worker, April 3, 1952, p. 3); he was one of the sponsors of a peace referendum jointly with the American Peace Crusade to make the end of the Korean war a major issue in the 1952 election campaign (Daily People's World of August 23, 1952, p. 8).

"Dr. DuBois issued a statement on the death of Stalin which read in part as follows: 'Let all Negroes, Jews, and foreign-born who have suffered in America from prejudice and intolerance, remember Joseph Stalin' (Daily Worker of March 9, 1953; p. 3); the Daily Worker of January 18, 1952, (p. 8), reported that he had renewed his fight for a passport in order to attend the American Intercontinental Peace Conference in Rio de Janeiro; it was reported in the Washington Evening Star on May 10, 1952 (p. B-21), that Dr. DuBois was refused admission to Canada to attend the Canadian Peace Congress because he refused to undergo an examination by the Canadian Immigration Service. On September 14, 1952, the Worker (p. M6), reported that Dr. DuBois had experienced passport difficulties when leaving the United States; and on May

4, 1953 (p. 2), the Daily Worker reported that United States delegate, Betty Sanders, told the opening session of the Continental Cultural Congress in Santiago, Chile, that DuBois would have attended in person 'as well as in spirit,' if he had not been denied a passport."

According to Webster's New Collegiate Dictionary, "subversion" means "act of subverting, or a state of being subverted; overthrow; utter ruin; destruction. That which subverts."

The time element would prevent my reading all of these citations on the various individuals who compose the high echelon of this organization. I will, however, read excerpts from some of them and would like to ask later for permission to incorporate each of them in full in the Record.

"OCTOBER 13, 1935.

"Subject: Arthur B. Spingarn, national president, member of board of directors, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"Arthur B. Spingarn is listed as an individual participating in the Conference on Africa, held by the Council on African Affairs in New York City, April 14, 1944, according to the Council's pamphlet, For a New Africa (p. 37).

"The Attorney General of the United States cited the Council on African Affairs as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948. The Attorney General redesignated the organization April 27, 1953, pursuant to Executive Order No. 10450, and included it on the April 1, 1954 consolidated list of organizations previously designated.

"An undated leaflet, The Only Sound Policy for a Democracy and the Daily Worker of March 18, 1945 (p. 2), listed Arthur Spingarn, president NAACP, New York, N.Y., as one who signed a statement of the National Federation for Constitutional Liberties supporting the War Department's order on granting commissions . . . to members of the Armed Forces who have been members of or sympathetic to the views of the Communist Party. An advertisement in the New York Times, April 1, 1946 (p. 16), listed Arthur B. Spingarn as a signer of a statement of the National Federation for Constitutional Liberties opposing use of injunctions in labor disputes.

"The Attorney General cited the National Federation for Constitutional Liberties as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The group was cited previously by the Attorney General as part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program. (Congressional Record, vol. 88, pt. 6, p. 7446.) The special Committee on Un-American Activities, in its report of March 20, 1944 (p. 50), cited the National Federation as 'one of the viciously subversive organizations of the Communist Party.' The Committee on Un-American Activities, in its report of September 2, 1947 (p. 3), cited the National Federation . . . as among a 'maze of organizations' which were 'spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law.'

"An undated letterhead of the Public Use of Arts Committee listed Arthur B. Spingarn as a sponsor of the organization. The Special Committee on Un-American Activities, in its report of March 20, 1944 (p. 112), cited the Public Use of Arts Committee as a Communist front which was organized by the Communist-controlled Artists Union."

"FEBRUARY 13, 1936.

"Subject: Channing H. Tobias, Chairman of the Board of Directors, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"An undated leaflet, 'The South Is Closer Than You Think,' naming Channing Tobias as a member of the executive board and as cochairman of the New York committee, Southern Conference for Human Welfare. The 'Southern Patriot' for December 1946 (p. 8) named him as an advisory associate for 1947-48 of the Southern Conference for Human Welfare. This organization has been cited as a Communist front by the special Committee on Un-American Activities (Report of March 29, 1944, p. 147); and was the subject of a separate report by the Committee on Un-American Activities (Report No. 592, June 12, 1947) wherein it was cited as a Communist-front organization 'which seeks to attract southern liberals on the basis of its seeming interest in the problems of the South' although its 'professed interest in southern welfare is simply an expedient for larger aims serving the Soviet Union and its subservient Communist Party in the United States.'

"Channing H. Tobias was shown as a member of the Council on African Affairs, Inc., in the pamphlet 'Eight Million Demand Freedom' (back cover). 'For a New Africa' (p. 38), 'Africa in the War' (inside back cover), and 'Seeing Is Believing'; the leaflets, 'The Job To Be Done,' and 'What of Africa's Place in Tomorrow's World?' all issued by the organization; and a letterhead of the council dated May 17, 1945. In this connection, it should be noted that the New York Times reported on May 29, 1948 (p. 6) that Channing H. Tobias had resigned from the Council on African Affairs. The Council on African Affairs has been cited as a subversive and Communist organization by the Attorney General (letters to Loyalty Review Board, released December 4, 1947, and September 21, 1948; also redesignated pursuant to Executive Order 10450 in Attorney General's memorandum to heads of departments, April 29, 1953).

"The call to a dinner forum on 'Protestantism Answers Hate,' which was held in New York City, February 25, 1941, named Channing H. Tobias as one of the sponsors of the forum, arranged by the Protestant Digest Associates; he was a member of the editorial advisory board of the Protestant Digest, as shown on a letterhead of the publication dated October 7, 1941; and the June-July 1942 issue of the Protestant named him as an editorial adviser. The Protestant Digest, later known as The Protestant and published by Protestant Digest Associates, was cited by the Special Committee on Un-American Activities as 'a magazine which has faithfully propagated the Communist Party line under the guise of being a religious journal.' (Report of March 29, 1944, p. 43).

"A letterhead of the People's Institute of Applied Religion, dated April 9, 1942, named Channing H. Tobias as one of the sponsors of that organization. The U.S. Attorney General has cited the People's Institute as subversive and Communist. (Letters to Loyalty Review Board, released June 1, 1948, and September 21, 1948; also redesignated pursuant to Executive Order 10450 in Attorney General memorandum of April 29, 1953.)

"The Daily Worker of March 4, 1939 (p. 2) reported that Channing Tobias endorsed the fifth New York City Conference of the American League for Peace and Democracy; and a letterhead of the organization, dated June 12, 1939, showed him as a member of the executive board. The special Committee on Un-American Activities cited the American League for Peace and Democracy as 'The largest of the Communist front movements in the United States,' and added, 'The league contends publicly that it is not a Communist-front movement, yet at the very beginning Communists dominated it. Earl Browder was its vice president.' (See Report of January 3, 1939, pp. 69-71 and March 29, 1944, p. 37; also cited in Reports, January 3, 1941, June 23, 1942, and January 2, 1943.) The Attorney General, in 1942, cited it as being established in 1937 'in an effort to create public sentiment on behalf of a foreign policy adapted to the interests of the Soviet Union' (Congressional Record, vol. 88, pt. 6, pp. 7443-7444); and later, the Attorney General cited the ALPD as a subversive and Communist organization. (Letters to Loyalty Review Board, released June 1, 1948 and September 21, 1948; also redesignated in Attorney General memorandum, April 29, 1953.)

"Identified as being from New York City, Channing H. Tobias was named as one of those who signed the January 1943 message of the National Federation for Constitutional Liberties addressed to the United States House of Representatives (leaflet containing the message attached to an undated letterhead of the organization). He sponsored the Conference on Constitutional Liberties in America, June 7-9, 1940, in Washington, D.C., as shown by the call to the conference, in which source his address was shown as New York City. The National Federation for Constitutional Liberties has been cited as 'one of the

viciously subversive organizations of the Communist Party' (special Committee on Un-American Activities, Reports of March 29, 1944, p. 50; June 25, 1942, p. 20; and January 2, 1943, pp. 9 and 12); as 'part of what Lenin called the solar system of organization, ostensibly having no connection with the Communist Party, by which Communist attempts to create sympathizers and supporters of their program' (Attorney General Biddle, Congressional Record, vol. 88, pt. 6, p. 7446); and as subversive and Communist (Attorney General letters to the Loyalty Review Board, released December 4, 1947 and September 21, 1948; also redesignated April 29, 1953). The organization 'was established as a result of a conference on constitutional liberties held in Washington, D.C., June 7-9, 1940.' (See Congressional Record, vol. 88, pt. 6, p. 7446, and the report of the special Committee on Un-American Activities, March 29, 1944, p. 102.)

"Dr. Channing H. Tobias, National Council, YMCA, was listed in the call for a New York State Conference on National Unity to be held in New York City, December 6, 1941, as a signer of the call. This conference was cited as a Communist front by the special Committee on Un-American Activities. (Report of March 29, 1944, p. 133.)

"Dr. Tobias was shown as a sponsor of the United Nations in America dinner, April 17, 1943, in New York City, in the invitation to that dinner issued by the American Committee for Protection of Foreign Born. This organization was cited as 'one of the oldest auxiliaries of the Communist Party in the United States' by the special Committee on Un-American Activities (reports of March 29, 1944, p. 155, and June 25, 1942, p. 13), and as subversive and Communist by the Attorney General (letters to Loyalty Review Board, released June 1, 1948, and September 21, 1948; also redesignated, April 29, 1953).

"The call to a Win-the-Peace Conference, an official letterhead of the conference, dated February 28, 1940, and the Daily Worker of March 5, 1940, listed Dr. Tobias as a sponsor. The National Committee To Win the Peace, which was formed at that conference in Washington, D.C., April 5-7, 1946, has been cited as a subversive and Communist organization by the Attorney General. (Letters to Loyalty Review Board, released December 4, 1947, and September 21, 1948; also redesignated by the Attorney General, April 29, 1953, pursuant to Executive Order 10450.)

"On a letterhead dated August 6, 1945, the American Committee for Yugoslav Relief listed Dr. Channing H. Tobias as a member of its sponsors committee. The Attorney General has listed this organization as being subversive and Communist. (Letters to Loyalty Review Board, released June 1, 1948, and September 21, 1948; also redesignated, April 29, 1953.)

"The hearing before a subcommittee of the Committee on Foreign Relations, United States Senate on nomination of Channing H. Tobias to be Alternate Representative of the United States at Sixth General Assembly of the United Nations, shows Dr. Tobias testified as follows relative to some of the information outlined above:

"Now, gentlemen, I come directly to the question at issue. In the first place, let me say that my political affiliations have been as follows: I have never supported other than the two major parties, Republican and Democratic; I have always been a political independent.

"So far as communism is concerned, in its ideology and as a system of government, it has always been repugnant to me for the very obvious reason that it is godless, and I am a Christian. It is at variance with the Christian religion in which I so firmly believe, and to which I have devoted my life.

"Now as to the charges that I had presented to me this morning, I want to be as frank as I can. There is a statement that the Daily Worker of March 4, 1939, reported that I had endorsed the Fifth New York City Conference of the American League for Peace and Democracy, and there are other committees like that that appear on the list.

"The answer is that in that day of hectic anxiety to win the war and to improve relationships among our people there were few people who were thinking about what might be the possible standing of these groups in the minds of American people. As one by one they have been debunked and their true purposes have been made known, I, along with all decent Americans, have withdrawn signatures and withdrawn from participation, which was very meager at the best. I make no wholesale denial concerning any of these. I may have given my signature for membership or for sponsorship. Most of them I do not recall except as names, and you must admit that they all had very good names, high-sounding names.

"SOUTHERN CONFERENCE FOR HUMAN WELFARE

"There are 1 or 2, however, that I recall, in which I had working relationships. First of all, reference is made to the Southern Conference for Human Welfare. I was a member of that group, because as it was organized and as it first operated, it had the support of some of the finest people in America. I do not need to call names. The record is available. The purpose as outlined and the work done by the New York committee challenged support of people of both races in New York until the time came when it was quite evident that some of its leaders were using it to enhance the party line. Then, along with others, I withdrew from affiliation with it.

"COUNCIL ON AFRICAN AFFAIRS

"The Council on African Affairs is mentioned, and I am very glad that that is mentioned, because it happens to be one of the few things on which I have a little documentation. I was a member of the Council on African Affairs from its beginning, because its director had been a faithful secretary of the Young Men's Christian Association. As a matter of fact, I had helped to bring him into association work and was instrumental in having him assigned during the First War to a field of service in Africa under a British command, and after that for 15 or 16 years, he served as a representative of the YMCA in South Africa. It was during his experience down there that he became embittered and came back home.

"He organized a group to try to bring the facts of African life before the public. We thought it worthwhile to do that. As the years passed by, it was quite evident that there was Communist infiltration and it got so strong that this young man, who had himself very largely followed the line against the advice of his best friends, was threatened with expulsion from the directorship of the council.

"There was a memorable meeting on February 3, 1948, a meeting at which I made a simple motion at the beginning, which resulted in a discussion that lasted 5 hours.

"Dr. Yergan, who had been the director of that organization and who is now so completely convinced of the treachery of the Communist leadership and its program, is being used by loyalty organizations that find him helpful in exposing those treacheries. He was up for expulsion. A group of us * * * tried to wrest the organization from the hands of that group.

"I made a motion at the very beginning that the simple statement that had been made after the Department of Justice declared the group subversive, that it was neither Communist, Fascist, nor subversive, a very simple statement, be made declaring the sentiment of the council. That motion was never put.

"After 5 hours of wrangling and delaying tactics, common to the group that was then in the ascendancy of the council, I arose and offered my resignation, and said that I could no longer have any part with the group when it was quite plain what was happening there." (Pp. 9 and 10.)

"At this point in the hearing (pp. 11-18), Dr. Tobias quoted from an article in the New York Times of February 4, 1948, headed, 'Tobias Firm in Stand Opposing Leftists,' and a similar article in the New York World-Telegram of the same date; and the articles were entered in the record together with one from the New York World-Telegram of October 13, 1948, headed, 'Dr. Yergan Denounces Commies as Wreckers.' Then testimony was continued:

"PROTESTANT MAGAZINE

"Dr. Tobias. Reference is made here to the Protestant magazine. I am glad that it is here. This is a magazine that was founded a few years ago by Mr. Kenneth Leslie, who I did not know at the time. He sent a sample copy of it which seemed to be legitimate, or furnished the material for a legitimate organ of Protestantism. He asked for my signature, and, if you will look at any copy of that magazine and view the names of those who agreed to serve on the advisory board, you will see a practical who's who of the Protestant ministry of this country. They believed at the beginning that it was legitimate. Pretty soon it showed that it was not, and when that came out, along with others * * * I wrote and asked that my name be left off of all communications and off the published list of advisers of the committee. A principal reason for my disgust with it was that I found after a short while that it was definitely meant for one purpose, and that was to sound an anti-Catholic note. I am a Protestant but I am an interfaith believer. * * *

"So that connection with that was connection with something that, at the beginning we regarded as legitimate, and found out was not, and when we found out that it was not, discontinued relationships.

"PEOPLE'S INSTITUTE OF APPLIED RELIGION

"There is mention here of the People's Institute of Applied Religion. Many of us were taken in on that. It was largely on the ground of the fact that a man by the name of Claude Williams published a book of his struggles and hardships in the South, in the interest of race relationships.

"At the beginning it looked like a perfectly worthwhile movement. I gave it some support, made contributions to it, until I found out that it was plainly being dominated by leftists and I had no more to do with it and have had no more to do with that or any of the rest of these organizations that are referred to here.

"I mention those because I happen to know what the record is about them. As I have said, many of the others I have no recollection of except as names, and I am perfectly willing to answer questions, but I want to say this final word before I have finished, and I want to put this into the record also. It is a little difficult when one gets attacked from the right and left to know the answer. I never read the Daily Worker, never have read it, but a friend of mine put this copy of it into my hands, and I want to read from it. This was on Thursday, January 25, 1931:

"Six prominent Negroes have taken it upon themselves to attempt to mobilize the Negro people behind the war program of Wall Street and Washington. They are * * * Channing H. Tobias, only United States Negro director of a Wall Street bank, and one of the two Negro directors of a Wall Street cartel set up to exploit Liberian resources and peoples: * * * With the exception of Dr. Mays, these individuals have long been go-betweens through whom the billionaires who own and run the United States try to lead and control the main organization of Negro struggle."

"I want that, Mr. Chairman, included in the record.

"Senator SPARKMAN. Without objection, it will be done' (pp. 14 and 15).

Dr. Tobias concluded his statement with this paragraph:

"I want to say in all frankness and candor that whether or not I go on this delegation is not too important. What is important, however, is whether or not 15,000,000 loyal Negro Americans get the impression that its leadership is being crucified because of innuendoes, allegations, and associations. The answer to that question is more important than any word that I could possibly say at Paris.

"Thank you' (p. 16).

"During the questioning which followed his statement, Dr. Tobias testified, 'I have never been, am not now, a member of the Communist Party' (p. 23). In answer to a question on the National Federation for Constitutional Liberties he replied: 'That is also a name organization. I happen to know the principal leader in that. That was Mr. George Marshall who was a brother of James Marshall, of the Board of Education of New York, and the son of the late Louis Marshall. Other than that, I know nothing about it. I had no activity in it whatever' (p. 25).

"Regarding the American Committee for Protection of Foreign-Born, Dr. Tobias said, 'That is also just a name,' that he had no other activity in it other than joining in the invitation of sponsoring a dinner, that he did not know at the time it was subversive, and added: 'The very fact that it was supposed to be interested in foreign-born citizens—I was interested in them, too, and assumed that it was a good cause' (p. 25).

"When questioned about the Win-the-Peace Conference and the New York State Conference on National Unity, Dr. Tobias answered that he knew nothing about either and did not remember them. However, he replied to questions on the American Committee for Yugoslav Relief: 'Yes; I remember that. They gave a dinner at which Mrs. Roosevelt, I think, was one of the principal speakers. Everybody was interested in trying to help that cause at that time. * * * I don't know whether it has been placed on the subversive list or not, but at that time it was regarded as a perfectly respectable organization. * * * I don't remember membership in it at all. Sponsorship, I think is all' (from pp. 26 and 27)."

"FEBRUARY 13, 1956.

"Subject: Allan Knight Chalmers, national treasurer, member of the board of directors, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"In connection with his public testimony on August 17 and 18, 1937, before the special Committee on Un-American Activities, Mr. Walter S. Steele furnished additional information which was printed in the hearings following his testimony and from which the reference below is taken:

"A good example of one of the united fronts in the United States is the Scottsboro Defense Committee * * *. The national chairman of this committee is the Reverend Allan Knight Chalmers, head of the Church League for Industrial Democracy; member of the advisory board of the National Religion and Labor Foundation; executive committee of the War Registers League; sponsor of the Emergency Peace Campaign, and a member of the sponsoring committee for the testimonial dinner given in honor of Norman Thomas in 1936.' (Public hearings, vol. 1, p. 268.)

"Except for the Scottsboro Defense Committee, none of these organizations has been cited in any manner either by the Committee on Un-American Activities or the Attorney General of the United States. The special Committee on Un-American Activities cited the Scottsboro Defense Committee as a Communist-front organization in reports of January 8, 1939 (p. 82), and March 29, 1944 (p. 177).

"Rev. Allan Knight Chalmers was listed among the sponsors of the Greater New York Emergency Conference on Inalienable Rights in the program of that conference held February 12, 1940. The special Committee on Un-American Activities cited the Greater New York Emergency Conference in Inalienable Rights as a Communist front which was succeeded by the National Federation for Constitutional Liberties (report of March 29, 1944, pp. 90, 129). The Committee on Un-American Activities cited it as being among a 'maze of organizations' which were 'spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law' (report of September 2, 1947, p. 8).

"A leaflet entitled 'Protestantism Answers Hate' contains the name of Dr. Allan Knight Chalmers, Broadway Tabernacle, New York, in a list of sponsors of the call to a dinner forum in New York City, February 25, 1941, under auspices of Protestant Digest Associates. The Protestant Digest was cited by the special committee as 'a magazine which has faithfully propagated the Communist Party line * * *.' (Report 1311 of March 29, 1944.)"

"FEBRUARY 13, 1956.

"Subject: Grace B. Fenderson, national vice president, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"The pamphlet, 'For a New Africa' (p. 37), proceedings of the Conference on Africa held under auspices of the Council on African Affairs, April 14, 1944, named Mrs. Grace B. Fenderson as a conference participant.

"The Attorney General of the United States cited the Council on African Affairs as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list of organizations previously designated."

"FEBRUARY 13, 1956.

"Subject: Willard S. Townsend, national vice president, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this

committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"One Willard Townsend was a signer of a plea for the release of Earl Browder from prison, according to an advertisement which appeared in the Washington Post, March 12, 1942. He was identified as International president of the United Transport Service Employees of America (CIO)."

"FEBRUARY 13, 1936.

"Subject: A. Phillip Randolph, national vice president, NAACP, 1934.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"The Daily Worker of September 12, 1930 (p. 2), reported that A. Phillip Randolph, president, AFL, Brotherhood of Sleeping Car Porters, opposed the jailing of the Communist leaders.

"The Attorney General of the United States reported that A. Phillip Randolph, president of the National Negro Congress, refused to run in April 1940 'on the ground that it was "deliberately packed with Communists and Congress of Industrial Organizations members who were either Communists or sympathizers with Communists"' (Congressional Record, September 24, 1942, pp. 7687 and 7688).

"Walter S. Steele, in testimony in public hearings, Committee on Un-American Activities, July 21, 1947 (p. 92), referred to A. Phillip Randolph as follows:

"A. Phillip Randolph, one-time president of the National Negro Congress, resigned his position because of the Communist control thereof. At the time of his resignation, at a meeting held in Washington, D.C., he charged that the congress was controlled by the Communist Party, through which he found it was chiefly financed."

"George K. Hunton testified in public hearings, Committee on Un-American Activities, July 13, 1940 (p. 451), concerning the Communist infiltration of the National Negro Congress with reference to A. Phillip Randolph as follows:

"In the National Negro Congress they did make progress. That was a sound, constructive organization started about 10 years ago. It was a good organization, with a sound, constructive program, and the Communies moved in, and within a year and a half the white Communist members completely outnumbered the Negro members and took over. He it said to his credit that the then president, A. Phillip Randolph, roundly denounced them and then resigned, and said no longer would the National Negro Congress represent the feeling of the Negro people who organized it . . ."

"Manning Johnson testified in public hearings, Committee on Un-American Activities, July 14, 1940, as follows concerning the National Negro Congress and A. Phillip Randolph:

"Mr. TAVENNER. What was the relationship of that commission (Negro Commission of the Communist Party) to the American Negro Labor Congress, the League of Struggle for Negro Rights, and the National Negro Congress?

"Mr. JOHNSON. The Negro League was formed by the Communist Party, and its program was identical with the program of the Communist Party for the Negro.

"The majority of members of the American Negro Labor Congress were Communists or fellow-travelers. It was a very narrow, sectarian organization, and the party decided to change its name and broaden its activities, so the name was changed to the League of Struggle for Negro Rights. . . ."

"The League of Struggle for Negro Rights was never successful in penetrating any broad sections of the Negro people. It remained a very narrow and sectarian organization. So the party, after having received the open letter, which was really drawn in Moscow and called for breaking away from narrow organizations, in line with this open letter, at a meeting of the national committee which, as I recall, was in the latter part of 1934 or early part of 1935, we discussed the general situation among Negroes, and the conclusion was that there was considerable unrest among them and that the time was historically right for the formation of a broad and all-inclusive organization.

"As a result of that discussion and that conclusion, the national committee of the party, upon the recommendation of one of the members of the Negro commission present at that meeting, decided to set up the National Negro Congress. The national committee gave James W. Ford the responsibility, along with the Negro commission of the national committee, to form that congress.

"We were fishing around for someone to head the congress, and we found there was no finer person to get who was not a member of the party than A. Phillip Randolph. He was approached and agreed.

"The third—and fatal—National Negro Congress was held in Washington, D.C. The Communists had become so drunk with power, and they felt they had such strong control over the congress, that they thought they could walk roughshod over the liberals, and they antagonized A. Phillip Randolph and he began to fight James W. Ford and others.

"James W. Ford and others insisted I fight A. Phillip Randolph, and I refused to do so, and at that time I predicted they were on the road to breaking up the congress.

"The fight widened to such an extent that Randolph began to speak openly against Communist domination. I used to wonder how Randolph could be so naive as to not know it was a Communist-front organization.

"Before the third congress met, we got wind that Randolph was going to resign. We had Communists go to that congress representing various paper organizations so as to give them control in voting.

"When Randolph saw the congress was packed with Communists, Randolph resigned and walked out * * * (Pp. 510-512.)

"A. Phillip Randolph supported a statement to Congress issued by the American League Against War and Fascism against neutrality measures as reported by the Daily Worker of February 27, 1937 (p. 2). The Daily Worker of April 22, 1938 (p. 2), reported that A. Phillip Randolph was one of the signers of a letter urging open hearings on the neutrality act which was sent to Congress under auspices of the American League for Peace and Democracy. A. Phillip Randolph was nominated as a member of the National Labor Committee of the American League for Peace and Democracy at the American Congress for Peace and Democracy held in Washington, D.C., January 6-8, 1939, as shown by the pamphlet, '7½ Million * * *' (p. 32). Letterheads of the China Aid Council of the American League for Peace and Democracy dated May 18, 1938, and June 11, 1938, name him as a sponsor of the council. He was a sponsor of the Easter drive of the China Aid Council of the American League * * *, as shown by the Daily Worker of April 8, 1938 (p. 2). A photostatic copy of a letterhead of the American League for Peace and Democracy dated April 6, 1939, listed A. Phillip Randolph as a national sponsor of that organization.

"The Attorney General of the United States cited the American League Against War and Fascism as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948. The organization was redesignated by the Attorney General April 27, 1953, pursuant to Executive Order No. 10450, and included it on the April 1, 1954, consolidated list of organizations previously designated. The organization was cited previously by the Attorney General as a Communist-front organization (in re Harry Bridges, May 28, 1942, p. 10). The Special Committee on Un-American Activities, in its report dated March 29, 1944 (p. 53), cited the American League Against War and Fascism as 'organized at the First United States Congress Against War which was held in New York City, September 29 to October 1, 1933. Four years later at Pittsburgh, November 26-28, 1937, the name of the organization was changed to the American League for Peace and Democracy. * * * It remained as completely under the control of Communists when the name was changed as it had been before."

"The Attorney General cited the American League for Peace and Democracy as subversive and Communist in letters released June 1 and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Attorney General cited the group previously as established in the United States in 1937 as successor to the American League Against War and Fascism 'in an effort to create public sentiment on behalf of a foreign policy adapted to the interests of the Soviet Union. * * * The American League for Peace and Democracy * * * was designed to conceal Communist control, in accordance with the new tactics of the Communist International' (Congressional Record, vol. 88, pt. 6, pp. 7442-7473). The Special Committee on Un-American Activities, in

its report of January 3, 1939 (pp. 69-71), cited the American League for Peace and Democracy as 'the largest of the Communist-front movements in the United States.'

"A letterhead of the organization, Commonwealth College, dated January 1, 1940, listed A. Philip Randolph as a member of the National Advisory Committee. He endorsed the reorganization plan of Commonwealth College, as shown by the August 15, 1937, issue of *Fortnightly*, a publication of the college (p. 3).

"The Special Committee on Un-American Activities cited Commonwealth College as a Communist enterprise in its report of March 29, 1944 (pp. 76 and 167). The Attorney General cited the Commonwealth College as Communist in a letter released April 27, 1949; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list.

"An undated leaflet of the League for Mutual Aid listed A. Philip Randolph as a member of the executive committee of that organization. He was a guest of honor at the 17th annual dinner of the League for Mutual Aid held February 1, 1937, as shown by *New Masses*, January 26, 1937 (p. 37).

"The League for Mutual Aid was cited as a Communist enterprise by the special Committee on Un-American Activities in its report of March 29, 1944 (p. 76).

"A. Philip Randolph was a sponsor of the Medical Bureau and North American Committee To Aid Spanish Democracy, as shown by letterheads of the organization dated July 6, 1938, and February 2, 1939. The *Daily Worker* of June 2, 1938 (p. 5), reported that A. Philip Randolph was a supporter of a meeting of the Medical Bureau * * *.

"In 1937-38, the Communist Party threw itself wholeheartedly into the campaign for in support of the Spanish Loyalist cause, recruiting men and organizing multifarious so-called relief organizations.' Among these was the Medical Bureau and North American Committee To Aid Spanish Democracy. (Special Committee on Un-American Activities, report, Mar. 29, 1944, p. 82.)

"New Masses for October 26, 1937 (p. 11), reported that A. Philip Randolph was chairman of the National Negro Congress. A. Philip Randolph was president of the National Negro Congress, as shown by the *Daily Worker* of January 1, 1938 (p. 4), January 13, 1938 (p. 3), April 19, 1938 (p. 3), and the pamphlet, 'Second National Negro Congress, October 1937.' He was president of the Third National Negro Congress, as reported by the June 1940 issue of the *Communist* (p. 548). The official proceedings of the 1936 National Negro Congress (p. 41), listed A. Philip Randolph as a member of the national executive council of the organization. He spoke at a gathering of the congress, as reported by the *Daily Worker* of March 8, 1938 (p. 3). The *Daily Worker* of February 15, 1938 (p. 7), reported that A. Philip Randolph contributed to the official proceedings of the Second National Negro Congress.

"The Attorney General cited the National Negro Congress as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The organization was cited previously by the Attorney General as a Communist-front group (Congressional Record, vol. 88, pt. 6, p. 7447). The special Committee on Un-American Activities, in its report of January 3, 1939 (p. 81), cited the National Negro Congress as 'the Communist-front movement in the United States among Negroes * * *.'

"A. Philip Randolph was a consultant of the Panel on Citizenship and Civil Liberties of the Southern Conference for Human Welfare, as shown by an official report of the organization, dated April 19-21, 1942. The call to the second conference, Southern Conference for Human Welfare, April 14-16, 1940, listed A. Philip Randolph as a sponsor of that conference.

"The special Committee on Un-American Activities, in its report of March 29, 1944 (p. 147), cited the Southern Conference for Human Welfare as a Communist front which received money from the Robert Marshall Foundation, one of the principal sources of funds by which many Communist fronts operate. The Committee on Un-American Activities, in its report of June 12, 1947, cited the Southern Conference for Human Welfare as a Communist-front organization 'which seeks to attract southern liberals on the basis of its seeming interest in the problems of the South' although its 'professed interest in southern welfare is simply an expedient for larger aims serving the Soviet Union and its subservient Communist Party in the United States.'

"The *Daily Worker*, issues of March 28, 1938 (p. 3), and April 4, 1938 (p. 3), listed A. Philip Randolph as a sponsor of the World Youth Congress. The special Committee on Un-American Activities, in its report of March 29, 1944 (p. 183),

cited the World Youth Congress as a Communist conference held in the summer of 1938 at Vassar College.

"A. Phillip Randolph signed a petition of the American Friends of Spanish Democracy to lift the arms embargo as shown by the Daily Worker of April 8, 1938 (p. 4). The special Committee on Un-American Activities, in its report of March 29, 1944 (p. 82), cited the American Friends of Spanish Democracy as follows: 'In 1937-38, the Communist Party threw itself wholeheartedly into the campaign for the support of the Spanish Loyalist cause, recruiting men and organizing multifarious so-called relief organizations * * * such as * * * American Friends of Spanish Democracy.'

"A. Phillip Randolph is listed as a sponsor on a letterhead of the American Relief Ship for Spain dated September 3, 1938. The American Relief Ship for Spain was cited as 'one of the several Communist Party front enterprises which raised funds for Loyalist Spain (or rather raised funds for the Communist end of that civil war).' (Special Committee on Un-American Activities Report, March 29, 1944, p. 102.)

"The proceedings of the Congress of Youth of the American Youth Congress, July 1-5, 1939 (p. 3), listed A. Phillip Randolph as a signer of the call to the congress.

"A. Phillip Randolph was a sponsor of the Conference on Pan-American Democracy (letterhead, November 16, 1938). The booklet, These American Say, published by the Coordinating Committee To Lift the Embargo, named him as a representative individual. He was a sponsor of the Greater New York Emergency Conference on Inalienable Rights (program of conference, February 12, 1940).

"The Conference on Pan-American Democracy (known also as Council for Pan-American Democracy) was cited as subversive and Communist by the Attorney General in letters released June 1 and September 21, 1948; redesignated April 27, 1953, pursuant to Executive Order No. 10450. The Special Committee on Un-American Activities, in its report of March 29, 1944 (pp. 161 and 164), cited the organization as a Communist front which defended Carlos Luiz Prestes, a Brazilian Communist leader and former member of the executive committee of the Communist International.

"The Special Committee on Un-American Activities, in its report of March 29, 1944 (pp. 137 and 138), cited the Coordinating Committee To Lift the (Spanish) Embargo as one of a number of front organizations set up during the Spanish civil war by the Communist Party in the United States and through which the party carried on a great deal of agitation.

"The Greater New York Emergency Conference on Inalienable Rights was cited as a Communist front which was succeeded by the National Federation for Constitutional Liberties (special committee report, March 29, 1944, pp. 96 and 129). The Committee on Un-American Activities, in its report of September 2, 1947 (p. 3), cited the Greater New York Emergency Conference on Inalienable Rights among a 'maze of organizations' which were 'spawned for the alleged purpose of defending civil liberties in general, but actually intended to protect Communist subversion from any penalties under the law.'

"A. Phillip Randolph was a sponsor of the Spanish Refugee Relief Campaign, as shown by the back cover of a pamphlet, Children in Concentration Camps. He signed the call to a United May Day conference, according to the daily worker of March 17, 1937 (p. 4). An undated letterhead of the United May Day Committee listed him as chairman.

"The Special Committee on Un-American Activities cited the Spanish Refugee Campaign as a Communist-front organization (report, January 3, 1940, p. 9).

"The United May Day conference was cited as 'engineered by the Communist Party for its 1937 May Day demonstrations' and also organized by the party in 1938 (special committee report, March 29, 1944, pp. 124 and 139).

"The Attorney General cited the United May Day Committee as subversive and among the affiliates and committees of the Communist Party, U.S.A., which seeks 'to alter the form of government of the United States by unconstitutional means.' (Letter released December 4, 1947; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list.)

"The Daily Worker of January 23, 1937 (p. 3), announced that A. Phillip Randolph was scheduled to speak at the Southern Negro Youth Congress, Richmond, Va., February 12-41. 'The People Versus H. O. L.' listed him as a sponsor of the Consumers National Federation. He was shown as a sponsor of the Public Use of Arts Committee on an undated letterhead of that organization.

"The Southern Negro Youth Congress was cited as subversive and among the affiliates and committees of the Communist Party, U.S.A., which seeks to alter the form of government of the United States by unconstitutional means. (Attorney General, letter released December 4, 1947; redesignated April 27, 1953, and included on April 1, 1954, consolidated list.) The special Committee on Un-American Activities, in its report of January 3, 1940 (p. 9), cited the Southern Negro Youth Congress as a Communist-front organization. The Committee on Un-American Activities, in its report of April 17, 1947 (p. 14), cited the Southern Negro Youth Congress as 'surreptitiously controlled' by the Young Communist League.

"The Consumers National Federation was cited as a Communist-front group by the special committee in its report of March 29, 1944 (p. 155).

"Public Use of the Arts Committee was cited as a Communist front by the special committee in its report of March 29, 1944 (p. 112).

Subject: T. G. Nutter, national vice president, member of national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer or a fellow traveler unless otherwise indicated.

"The call to the National Negro Congress, Chicago, Ill., February 14, 1936, listed T. G. Nutter, Charleston, W. Va., as an endorser.

"The National Negro Congress was cited as subversive and Communist by the Attorney General of the United States in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948. The organization was redesignated by the Attorney General, April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list of organizations previously designated. The Attorney General cited the group previously as a Communist front as shown by the Congressional Record, volume 88, part 6, page 7447. The special Committee on Un-American Activities, in the report of January 3, 1939 (p. 81), cited the National Negro Congress as 'the Communist-front movement in the United States among Negroes.'"

"FEBRUARY 13, 1956.

"Subject: L. Pearl Mitchell, national vice president, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"The Daily Worker of April 18, 1936 (p. 3), named L. Pearl Mitchell, identified as national director of the National Association for the Advancement of Colored People, as chairman of a committee for a benefit dance which was held by the Joint Scottsboro Defense Committee, Cleveland, Ohio, for the purpose of raising money to be sent to New York.

"The Scottsboro Defense Committee was cited as a Communist front by the special Committee on Un-American Activities in its reports of January 3, 1939 (p. 82); and March 29, 1944 (p. 177).

"Miss L. Pearl Mitchell, of Cleveland, Ohio, was one of the endorsers of the National Negro Congress, as shown by the call for National Negro Congress, Chicago, Ill., February 14, 1936.

"The National Negro Congress was cited as subversive and Communist by the Attorney General of the United States in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948; also included in the Attorney General's consolidated list of April 1, 1954.

"The special Committee on Un-American Activities stated that 'the officers of the National Negro Congress are outspoken Communist sympathizers, and a majority of those on the executive board are outright Communists' (special Committee on Un-American Activities report, January 3, 1939, p. 81; also cited, reports, January 3, 1940, p. 9; June 25, 1942, p. 20; March 29, 1944, p. 180; and included in the Attorney General's consolidated list of April 1, 1954)."

"FEBRUARY 13, 1956.

"Subject: Eric Johnston, national vice president, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"On March 27, 1947, Eric Johnston, president of the Motion Picture Association of America, appeared before this committee as a witness in public hearings on H.R. 1884 and H.R. 2122, bills to curb or outlaw the Communist Party of the United States (Committee on Un-American Activities, hearings and reports, vol. 1, pp. 288-307).

"On October 27, 1947, Eric Allen Johnston, president of the Motion Picture Association of America, again appeared as a witness before the committee in public hearings regarding Communist infiltration of the motion-picture industry (committee hearings and reports, vol. 1, pp. 305-328)."

"FEBRUARY 13, 1956.

"Subject: Bishop W. J. Walls, national vice president, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"As shown in *Soviet Russia Today* for December 1942 (p. 42), W. J. Walls was a sponsor of the Congress of American-Soviet Friendship. He was named as a sponsor of the National Council of American-Soviet Friendship on a letterhead of the group dated March 13, 1946, and a memorandum issued by the organization March 18, 1946.

"The National Council of American-Soviet Friendship was cited as subversive and Communist by the Attorney General of the United States (press releases of December 4, 1947, and September 21, 1948; also included on consolidated list of April 1, 1954); the special Committee on Un-American Activities cited the National Council * * * (in a report dated March 29, 1944) as having been 'in recent months, the principal front' of the Communist Party.

"Bishop W. J. Walls, Chicago, Ill., supported the National Negro Congress, as shown in the *Daily Worker* of February 3, 1936 (p. 2). The National Negro Congress was cited as subversive and Communist by the Attorney General of the United States (press releases of December 4, 1947, and September 21, 1948; also included on consolidated list of April 1, 1954); the Attorney General had previously cited the National Negro Congress as 'sponsored and supported by the Communist Party' (Congressional Record, vol. 88, pt. 6, p. 7447). The special committee cited the National Negro Congress as 'the Communist-front movement in the United States among Negroes' (report of January 3, 1939; also cited in reports of January 3, 1940; January 3, 1941; June 25, 1942; and March 29, 1944).

"A petition to the United Nations, drafted and circulated by the Council on African Affairs, contained the signature of Bishop W. J. Walls, according to *Daily Worker* of June 5, 1950 (p. 4). The Attorney General cited the council as subversive and Communist (press releases of December 4, 1947, and September 21, 1948; also consolidated list of April 1, 1954).

"Bishop Walls also signed a statement of the National Committee To Defeat the Mundt (anti-Communist) Bill, according to the *Daily Worker* of April 3, 1950 (p. 4). The national committee * * * was cited by the Committee on Un-American Activities as 'a registered lobbying organization which has carried out the objectives of the Communist Party in its fight against antisubversive legislation' (report of the Committee on Un-American Activities on the National Committee To Defeat the Mundt Bill, released December 7, 1950).

"Identified as secretary of the board of bishops, A. M. E. Zion Church, Bishop W. J. Walls was named as having endorsed the World Peace Appeal (undated leaflet received by the committee September 11, 1950), and the *Daily Worker* of August 14, 1950 (p. 2). The World Peace Appeal was cited as a petition campaign launched by the Permanent Committee of the World Peace Congress at its meeting in Stockholm, March 16-19, 1950; as having 'received the enthusiastic

approval of every section of the international Communist hierarchy'; as having been lauded in the Communist press, putting 'every individual Communist on notice that he "has the duty to rise to this appeal"'; and as having 'received the official endorsement of the Supreme Soviet of the U.S.S.R. * * * (report of the Committee on Un-American Activities on the Communist Peace Offensive, April 1, 1951).

"Bishop Walls was one of the sponsors of the American Sponsoring Committee for Representation at the World Peace Congress, as shown on a mimeographed letter of December 1, 1950; he was a delegate to the World Peace Congress, as shown in the Daily Worker of November 7, 1950 (p. 2); he signed a protest made by the American Sponsoring Committee for Representation at the World Peace Congress (Daily People's World of November 20, 1950, p. 2). The protest was made against exclusion by the British Government of more than 50 Americans, five-sixths of the United States delegation to the World Peace Congress. In the latter two sources, he was identified as secretary of the board of bishops of A. M. E. Zion Church.

"The World Peace Congress was cited as a Communist front among the 'peace conferences' which 'have been organized under Communist initiative in various countries throughout the world as part of a campaign against the North Atlantic Defense Pact' (report of the Committee on Un-American Activities dated April 1, 1951).

"According to the Daily Worker of October 28, 1949 (p. 2), Bishop W. J. Walls, of Chicago, endorsed Benjamin J. Davis, Jr., Communist, and urged his reelection to the New York City Council. Benjamin J. Davis was 1 of the 11 leaders of the Communist Party on trial."

"FEBRUARY 13, 1956.

"Subject: John Haynes Holmes, national vice president, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"Rev. John Haynes Holmes was shown to be a member of the advisory board of the American Committee for Protection of Foreign Born on a letterhead of the organization dated April 27, 1938, on a letterhead dated January 1940, and in the call to the third annual conference. The American Committee for Protection of Foreign Born was cited as subversive and Communist by the Attorney General of the United States (letters to Loyalty Review Board, released June 1 and September 21, 1948; also included in consolidated list released April 1, 1954). The special Committee on Un-American Activities cited the organization as 'one of the oldest auxiliaries of the Communist Party in the United States' (report, March 29, 1944, p. 155; also cited in report, June 25, 1942, p. 13).

"In a bulletin, Spot News (p. 1), John Haynes Holmes was listed as a sponsor of the American Committee To Save Refugees, which was cited as a Communist front by the Special Committee on Un-American Activities, report, March 29, 1944 (pp. 49, 112, 120, 133, 138, 167, 180).

"A letterhead dated November 18, 1936, showed John Haynes Holmes to be a member of the general committee of the medical bureau, American Friends of Spanish Democracy. 'New Masses' (January 5, 1937, p. 31) also listed John Haynes Holmes as a member of the general committee of that organization. 'In 1937-38, the Communist Party threw itself wholeheartedly into the campaign for the support of the Spanish Loyalist cause, recruiting men and organizing multifarious so-called relief organizations * * * such as * * * American Friends of Spanish Democracy' (Special Committee on Un-American Activities report, March 29, 1944, p. 82).

"The Daily Worker (January 11, 1937, p. 2) reported that John Haynes Holmes was a sponsor of the New York City Conference Against War and Fascism. The Daily Worker (February 23, 1938, p. 2) reported that he signed a letter which was sponsored by the American League for Peace and Democracy. A contribution from him appeared in Fight (September 1935, p. 2), a magazine published by the American League Against War and Fascism; he was identified as minister, Community Church, New York. The following is quoted from an editorial comment on the article:

"In a recent sermon Dr. Holmes made an eloquent appeal for unity of Christians and Communists in opposition to the forces of reaction driving toward war and fascism, and in struggle for the achievement of a better world based on brotherhood and cooperation among men.

"If churchmen will unite with Communists, Socialists, trade unionists and everyone else opposed to war and fascism, our forces will be tremendously strengthened, and war and fascism will not be inevitable. Already the American League Against War and Fascism has brought together in its ranks people of diverse political and religious beliefs, liberals, radicals and revolutionists, of all races and creeds * * *.

"The American League Against War and Fascism was organized at the First United States Congress Against War which was held in New York City, September 29 to October 1, 1933. Four years later at Pittsburgh, November 26-28, 1937, the name of the organization was changed to the American League for Peace and Democracy. There was, however, no fundamental change in the character of the organization. It remained as completely under the control of Communists when the name was changed as it had been before' (special committee report, March 29, 1944, p. 53; also cited in reports, January 3, 1939, pp. 69 and 121; January 3, 1940, p. 10; June 25, 1942, p. 14). The Attorney General of the United States cited the league as subversive and Communist (letters to Loyalty Review Board, released December 4, 1947, and September 21, 1948; also included in consolidated list released April 1, 1954). The Attorney General cited it as a 'Communist-front organization' in re Harry Bridges, May 28, 1942 (p. 10) and said it was 'established in the United States in an effort to create public sentiment on behalf of a foreign policy adapted to the interests of the Soviet Union' (Congressional Record, vol. 88, pt. 6, p. 7442).

"The Daily Worker (September 24, 1940, p. 5) reported that an open letter sponsored by the Communist Party and the American Civil Liberties Union, demanding discharge of Communist Party defendants in Fulton and Livingston counties, was signed by John Haynes Holmes.

"The Daily Worker of February 13, 1937 (p. 2), reported that 'aroused by the Fascist tactics displayed by the Brazilian Government in its treatment of hundreds of political prisoners held without trial since November 1935, outstanding among them Luiz Carlos Prestes, leader of the liberation movement of the Brazilian people, and Arthur Ewert, ex-deputy in the German Reichstag, outstanding Americans have signed their names to a cable of protest forwarded to President Vargas of Brazil.' Among those named as signers was Dr. John Haynes Holmes, Community Church. A letterhead dated November 10, 1938, of the conference on Pan American Democracy, listed John Haynes Holmes as a sponsor. The Attorney General cited this organization as subversive and Communist (letters to Loyalty Review Board, released June 1 and September 21, 1948; also included in consolidated list released April 1, 1954). The special Committee on Un-American Activities cited the organization as a Communist front which defended Carlos Luis Prestes, a Brazilian Communist leader and former member of the executive committee of the Communist International (report, March 20, 1944, pp. 161 and 164; also cited in report, June 25, 1942, p. 18).

"The Daily Worker of February 13, 1939 (p. 2), reported that Dr. John Haynes Holmes was a member of the Descendants of the American Revolution. The Daily Worker (January 21, 1938, p. 2), also referred to him as a sponsor and as a member of the advisory board of that organization. A pamphlet, Descendants of the American Revolution (back page), listed him as a member of the advisory board of the organization. The special committee (report, June 25, 1942, pp. 18 and 19) cited the Descendants of the American Revolution as 'a Communist-front organization set up as a radical imitation of the Daughters of the American Revolution. The descendants have uniformly adhered to the line of the Communist Party. * * * The educational director * * * is one Howard Solzani, an instructor at the Communist Party's Workers School in New York.'

"A program of the conference (February 12, 1940), named John Haynes Holmes as a sponsor of the Greater New York Emergency Conference on Inalienable Rights. This conference was cited by the special Committee on Un-American Activities as a Communist front which was succeeded by the National Federation for Constitutional Liberties (report, March 29, 1944, pp. 90 and 120). It was also cited by the congressional Committee on Un-American Activities (report No. 1115, September 2, 1947, p. 8).

"An open letter to the United States Senate, initiated and distributed by the National Emergency Conference for Democratic Rights, in protest of the Denney deportation bill and the McCormack rider attached to the Walter espionage bill, was signed by the Reverend John Haynes Holmes (photostat of open letter). 'It will be remembered that during the days of the infamous Soviet-Nazi Pact, the Communists built protective organizations known as the National Emergency Conference, the National Emergency Conference for Democratic Rights, which culminated in the National Federation for Constitutional Liberties' (Committee on Un-American Activities, report No. 1115, September 2, 1947, p. 12). The special committee cited the National Emergency Conference * * * as a Communist front in the report of March 20, 1944 (pp. 48 and 102).

"The Daily Worker of February 8, 1939 (p. 7), reported that John Haynes Holmes was contributor to a booklet published by the League of American Writers. The league was cited as a Communist-front organization in three reports of the special committee (report, January 3, 1940, p. 9; June 25, 1942, p. 10; March 20, 1944, p. 48). It was cited as subversive and Communist by the Attorney General (letters to Loyalty Review Board, released June 1, and September 21, 1948; also included in consolidated list released April 1, 1954). Previously, the Attorney General (Congressional Record, vol. 88, pt. 6, p. 7445) stated that the overt activities of the league 'leave little doubt of its Communist control.'

"An undated letterhead listed John Haynes Holmes as a sponsor of the New York Tom Mooney Committee, which was cited as a Communist front by the special committee (report, March 20, 1944, p. 154).

"An undated leaflet published by the Citizens' Committee to Free Earl Browder named Dr. John Haynes Holmes, Community Church, New York City, among those who appealed to President Roosevelt for justice in the Browder case. The Citizens' Committee to Free Earl Browder was cited as Communists by the United States Attorney General (Congressional Record, vol. 88, pt. 6, p. 7447; letter to Loyalty Review Board, released April 27, 1949; also included in consolidated list released April 1, 1954). When Earl Browder (then general secretary, Communist Party) was in Atlanta Penitentiary serving a sentence involving his fraudulent passports, the Communist Party's front which agitated for his release was known as the Citizens' Committee to Free Earl Browder * * * (special committee report, March 20, 1944).

"Soviet Russia Today for December 1933 (p. 17) listed John Haynes Holmes among the endorsers of the National Committee, Friends of the Soviet Union. A pamphlet issued by the Friends of the Soviet Union entitled 'Welcome! "Land of Soviets" Moscow-New York 1920' listed John Haynes Holmes as a member of the Reception Committee for the Soviet Flyers. The Attorney General cited Friends of the Soviet Union as Communist (letters to Loyalty Review Board, released December 4, 1947, June 1 and September 21, 1948; also included in consolidated list released April 1, 1954). The special committee cited it as 'one of the most open Communist fronts in the United States' whose purpose 'is to propagandize for and defend Russia and its system of government' (report, January 3, 1930, p. 78).

"Rev. John Haynes Holmes, New York, N.Y., was shown to be a sponsor of the Mid-Century Conference for Peace on the call to that conference. The conference was cited by this committee at a meeting held in Chicago, May 20 and 30, 1950, by the Committee for Peaceful Alternatives to the Atlantic Pact and as having been 'aimed at assembling as many gullible persons as possible under Communist direction and turning them into a vast sounding board for Communist propaganda' (report 378, April 25, 1951, p. 58).

"A letterhead dated March 10, 1937, listed John Haynes Holmes as a member of the National People's Committee Against Hearst, cited by the special Committee on Un-American Activities as a subsidiary organization of the American League for Peace and Democracy, which was described on page 2 of this report (report, June 25, 1942, p. 10).

A letterhead dated March 20, 1926, listed Rev. John Haynes Holmes as a member of the advisory board of Russian Reconstruction Farms, Inc., cited by the special committee as a Communist enterprise which was directed by Harold Ware, son of the well-known Communist Ella Reeve Bloor (report, March 20, 1944, p. 76).

"New Masses for March 31, 1936 (p. 2) named John Haynes Holmes as a member of the League for Mutual Aid, cited as a Communist enterprise by the special committee (report, March 20, 1944, p. 76).

"According to the Daily Worker of February 16, 1948 (p. 16) Rev. John Haynes Holmes signed a statement to the mayor and city council in behalf of Simon Gerson, a Communist. An advertisement in the New York Times (February 19, 1948, p. 13), listed him as a supporter of the Citizens Committee To Defend Representative Government, supporting the seating of Gerson.

"The following was reported in the Daily Worker on September 22, 1948 (p. 5): 'Professor Ralph Barton Perry of Harvard University released yesterday the names of 93 prominent educators, churchmen, and individuals in other cultural fields, who have formed a committee of welcome for the Very Reverend Hewlett Johnson, D. D., dean of Canterbury Cathedral. Dean Johnson had been invited to visit the United States by the National Council of American-Soviet Friendship for a countrywide tour under its auspices. A visa was refused him on the ground that the sponsoring organization was on the Attorney General's list. The Committee of Welcome had extended to Dean Johnson an invitation to come to the United States under its independent auspice in November and December of this year and to speak at public gatherings.' The article named Dr. John Haynes Holmes, minister, the Community Church, New York, among the members of the committee.

"The National Council of American-Soviet Friendship was cited as subversive and Communist by the Attorney General (letters to Loyalty Review Board, released December 4, 1947 and September 21, 1948; also included in consolidated list released April 1, 1954). The special committee cited the National Council * * * as 'the Communist Party's principal front for all things Russian' (report, March 20, 1944, p. 156).

"The Daily Worker of February 10, 1951 (p. 2) reported that Rev. John Haynes Holmes was a signer of a statement addressed to the Attorney General, urging withdrawal of contempt of Congress proceedings against a number of persons who had been indicted for refusing to answer questions before congressional committees.

"The Daily People's World of August 1, 1951 (p. 2) reported that Rev. John Haynes Holmes endorsed a statement attacking the Smith Act, which was anti-Communist legislation. It was reported in the Daily Worker of January 15, 1953 (p. 8) that Rev. John Haynes Holmes, minister-emeritus, the Community Church of New York, signed a letter to President Truman asking for amnesty for 11 leaders of the Communist Party arrested under the Smith Act.

"In testimony before this committee on July 7, 1953, Benjamin Gitlow, former member of the Communist Party, said: 'Before the creation of the front organizations, the ministers who carried out the instructions of the Communist Party or collaborated with it were limited in numbers. The outstanding ones among them were * * * Rev. John Haynes Holmes * * * (Communist Activities in the New York Area, p. 2077).

"The Daily Worker of January 1, 1953 (p. 1), reported that Rev. John Haynes Holmes signed a petition for clemency for the Rosenbergs. The same newspaper on January 13, 1953 (p. 2) published a list of 'the clergymen of various faiths and other religious leaders who have urged President Truman to use his power of clemency to save the lives of Ethel and Julius Rosenberg.' The name of Dr. John Haynes Holmes, New York, appeared on the list. The Rosenbergs had been convicted of conspiracy to commit espionage and sentenced to death."

"FEBRUARY 13, 1953.

Subject: Mary McLeod Bethune, national vice president, NAACP, 1954.

"The public records, files and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"The Washington Post and Times Herald, May 19, 1955 (p. 20), reported that Mary McLeod Bethune, founder of the National Council of Negro Women and president emeritus, Bethune-Cookman College, died on May 18, 1955, at her home in Daytona Beach, Fla., at the age of 70.

"The name of Mary McLeod Bethune appeared on the honor roll of Elizabeth Gurley Flynn, as published in the Sunday Worker of March 9, 1947 (p. 7); Elizabeth Gurley Flynn is one of the few outstanding women leaders of the Communist Party in this country.

"A photostat of a letterhead of the American Committee for Yugoslav Relief dated August 6, 1945, listed Mrs. Mary McLeod Bethune as a member of the Sponsors Committee of the organization.

"The Attorney General of the United States cited the American Committee for Yugoslav Relief, Inc., as subversive and Communist in letters to the Loyalty Review Board, released June 1 and September 21, 1948; redesignated April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954 consolidated list of organizations previously designated. The Committee on Un-American Activities, in its report on the American Slav Congress, June 20, 1949 (p. 78), cited the American Committee for Yugoslav Relief, Inc., as a Communist front which as 'actively supported by the Daily Worker, official organ of the Communist Party, United States of America.'

"A pamphlet entitled '7½ Million * * *' (p. 34), released by the American League for Peace and Democracy, lists the name of Mrs. Bethune as a member of the national committee of that organization; a letterhead of the organization, dated July 12, 1939, and a photostat of a letterhead of the Baltimore division of the group dated May 18, 1939, furnished the same information. 'Flight' magazine for March 1939 (p. 3), and letterheads of the league dated March 24, 1939, and April 6, 1939 (photostat), name Mrs. Bethune as vice chairman of the league.

"The Attorney General cited the American League for Peace and Democracy as subversive and Communist in letters released June 1 and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, list. The organization was cited previously by the Attorney General as established in the United States in 1937 as successor to the American League Against War and Fascism 'in an effort to create public sentiment on behalf of a foreign policy adapted to the interests of the Soviet Union * * *' (Congressional Record, vol. 88, pt. 6, p. 7442). The Special Committee on Un-American Activities, in its report of January 3, 1939 (pp. 60-71), cited the American League for Peace and Democracy as 'the largest of the Communist-front movements in the United States. * * * The league contends publicly that it is not a Communist-front movement, yet at the very beginning Communists dominated it. Earl Browder was its vice president.'

"Mrs. Bethune was a sponsor of the Win-the-Peace Conference, as shown on a letterhead of that group dated February 28, 1946, the Daily Worker of March 5, 1946, and 'A Call to a Win-the-Peace Conference' in the National Press Building, Washington, D.C., April 5-7, 1946; she was vice chairman of the national committee, New York Committee to Win the Peace, according to a letterhead of that group dated June 1, 1946, and the New York Committee Call to Win-the-Peace Conference, June 28-29, 1946.

"The National Committee to Win the Peace was organized at the Win-the-Peace Conference in Washington, D.C., April 5-7, 1946, and was cited as subversive and Communist by the Attorney General in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list.

"Letterheads of the Civil Rights Congress, dated March 4, 1948, and May 7, 1948, list the name of Mrs. Bethune as vice chairman of the congress; she signed the call to the national conference which was held in Chicago, as shown in the Daily Worker of October 21, 1947 (p. 5); and was on the sponsors of a meeting of the group, according to the Daily Worker of January 19, 1949 (p. 10), in which source she was identified as president, National Council of Negro Women.

"The Attorney General cited Civil Rights Congress as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Committee on Un-American Activities, in its report of September 2, 1947 (pp. 2 and 19), cited the Civil Rights Congress as an organization formed in April 1946 as a merger of two other Communist-front organizations (International Labor Defense and the National Federation for Constitutional Liberties); 'dedicated not to the broader issues of civil liberties, but specifically to the defense of individual Communists and the Communist Party,' and 'controlled by individuals who are either members of the Communist party or openly loyal to it.'

"In a report on the American Slav Congress, released by this committee April 26, 1950, the organization was cited as 'a Moscow inspired and directed federation of Communist-dominated organizations seeking by methods of propaganda and pressure to subvert the 10 million people in this country of Slavic birth or descent.' The Attorney General cited the American Slav Congress as

subversive and Communist in letters released June 1 and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. Mrs. Bethune was one of the sponsors of a testimonial dinner which was held in New York City, October 12, 1947, under the auspices of the American Slav Congress (invitation issued by the congress; and the printed program, p. 2).

"The Daily People's World of April 20, 1944 (p. 3), reported that Mrs. Bethune was one of the sponsors of the American Youth for Democracy club; on a program of the dinner celebrating the first anniversary of the American Youth for Democracy, October 18, 1944, Mrs. Bethune was named also as a sponsor of the group (see program, Salute to Young America Committee).

"The Attorney General cited the American Youth for Democracy as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Special Committee on Un-American Activities cited the American Youth for Democracy as the new name under which the Young Communist League operates and which also largely absorbed the American Youth Congress (Report, March 29, 1944, p. 102). The Committee on Un-American Activities, in its report of April 17, 1947, cited the American Youth for Democracy as a front formed in October 1943 to succeed the Young Communist League and for the purpose of exploiting to the advantage of a foreign power the Idealism, inexperience, and craving to join which is characteristic of American college youth. Its 'high-sounding slogans' cover 'a determined effort to disaffect our youth and to turn them against religion, the American home, against the college authorities, and against the American Government itself.'

"Mrs. Bethune signed the call to the Congress of Youth which was the fifth national gathering of the American Youth Congress, held in New York City, July 1-5, 1939 (from the proceedings of the congress, p. 2).

"The Attorney General cited the American Youth Congress as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 7, 1953, and included on the April 1, 1954, list. The organization was cited previously by the Attorney General as 'controlled by Communists and manipulated by them to influence the thought of American youth' (Congressional Record, vol. 88, pt. 6, p. 7444; also cited in re Harry Bridges, May 28, 1942, p. 10). The Special Committee on Un-American Activities, in its report of June 25, 1942 (p. 16), cited the American Youth Congress as 'one of the principal fronts of the Communist Party.'

"Mrs. Bethune was a member of the advisory board of the Southern Negro Youth Congress (letterheads of the organization dated June 12, 1947, and August 11, 1947; and a page from a leaflet published by the organization).

"The Southern Negro Youth Congress has been cited as a Communist-front organization by the Special Committee on Un-American Activities in its report of January 3, 1940 (p. 9); and as 'surreptitiously controlled' by the Young Communist League (Committee on Un-American Activities, report 271, released April 17, 1947, p. 14). The Attorney General cited the group as subversive and among the affiliates and committees of the Communist Party, United States of America, which seeks to alter the form of government of the United States by unconstitutional means (letterhead of December 4, 1947; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list).

"A pamphlet of the Council on African Affairs entitled 'Seeing Is Believing,' which was published in 1947, named Mrs. Bethune as a member of the council; she participated in a conference of the council, according to the pamphlet, 'For a New Africa' (p. 38), also published by the organization. She sent greetings to the National Negro Congress, October 1937, as shown in the proceedings of the Congress; she also participated in the Conference on Africa, held in New York City, April 14, 1944 (pamphlet of the proceedings of the conference which was held under the joint auspices of the Council on African Affairs and the National Negro Congress).

"The Attorney General of the United States cited the Council on African Affairs as subversive and Communist in letters released on December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list.

"The National Negro Congress was cited by the Attorney General as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The organization was cited previously by the Attorney General as a Communist front (Congressional Record, vol. 88, pt. 6, p. 7447). The Special Com-

mittee on Un-American Activities, in its report of January 3, 1939 (p. 81), cited the National Negro Congress as 'the Communist-front movement in the United States among Negroes * * *'.

"The Daily Worker of February 8, 1939 (p. 2), published an appeal of the Negro People's Committee to Aid Spanish Democracy to lift the embargo on arms to Loyalist Spain; Mrs. Bethune was shown as one of those who signed the appeal. The special committee cited the Negro People's Committee to Aid Spanish Democracy as a Communist-front organization in report 1311 of March 20, 1944. Mrs. Bethune issued an individual statement which was printed in the booklet, 'These Americans say: "Lift the Embargo Against Republican Spain,"' which was compiled and published by the Coordinating Committee to Lift the (Spanish) Embargo, urging that 'in the name of true neutrality, in the cause of world peace and democracy, lift the embargo (on the sale of arms to Spain)'; she sponsored the Spanish Refugee Relief Campaign, as was shown in the pamphlet, 'Children in Concentration Camps.' The Coordinating Committee To Lift the (Spanish) Embargo was cited as one of a number of front organizations, set up during the Spanish Civil War by the Communist Party in the United States and through which the Party carried on a great deal of agitation (special committee in report 1311 of March 20, 1944). The Spanish Refugee Relief Campaign was cited as a Communist-front organization by the special committee in a report of January 3, 1940.

"Mrs. Bethune was a sponsor of the National Emergency Conference (letterhead of the organization dated May 10, 1939); and a member of the board of sponsors of the National Emergency Conference for Democratic Rights (press release of the group dated February 23, 1940). She signed the 1943 message of the National Federation for Constitutional Liberties, addressed to the United States House of Representatives, as shown on a leaflet attached to an undated letterhead of that organization. Mrs. Bethune was a sponsor of the Washington Committee for Democratic Action, as shown on the 'Call to a Conference on Civil Rights, April 20-21, 1940' (p. 4), and on a letterhead of the group dated April 26, 1940.

"It will be remembered that during the days of the infamous Soviet-Nazi pact, the Communists built protective organizations known as the National Emergency Conference, the National Emergency Conference for Democratic Rights, which culminated in the National Federation for Constitutional Liberties' (report 1115 of the Committee on Un-American Activities, released September 2, 1947); the three organizations were also cited by the special committee in report 1311 of March 29, 1944. The Attorney General cited the National Federation for Constitutional Liberties as 'part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program. (It) was established as a result of a conference on constitutional liberties held in Washington, D.C., June 7-9, 1940 (Congressional Record, vol. 88, pt. 6, p. 7446). The Attorney General also cited the organization as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list.

"The Washington Committee for Democratic Action was cited as an affiliate or local chapter of the National Federation. 'The program of the Washington Committee followed that of the National Federation. National Communist leaders have addressed its meetings, and conferences sponsored by it have been attended by representatives of prominent Communist-front organizations' (Attorney General, Congressional Record, vol. 88, pt. 6, p. 7447); the Attorney General also cited the group as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The special committee found that 'when the American League for Peace and Democracy was dissolved in February 1940, its successor in Washington was the Washington Committee for Democratic Action. The latter was affiliated with the National Federation for Constitutional Liberties' (reports of June 25, 1942, and March 29, 1944).

"Mrs. Bethune was one of the sponsors of the Congress of American-Soviet Friendship, as shown in Soviet Russia Today for December 1942 (p. 42); she spoke as a member of the women's panel of the congress, held in New York City, November 6, 7, 8, 1943, as shown by a photostat of the program. She participated in a meeting paying tribute to women of the United States of America and the U.S.S.R. held in Carnegie Hall, New York City, March 6, 1944, under the auspices of the committee of women, National Committee of American-Soviet Friendship

('Soviet Russia Today,' March 1944, p. 85; and 'New Masses' for February 29, 1944, p. 29); she was named as a sponsor and a member of the committee of women of the national council * * * on the call to a conference of women of the United States of America and the U.S.S.R. in the postwar world on November 18, 1944, in the Commodore Hotel, New York City; a letterhead of the committee of women, national council * * * dated March 1, 1948, contains the name of Mrs. Bethune in the list of members; she was a member of the board of directors of the national council, as shown on letterheads of that organization dated February 8, 1946, and March 13, 1946, and a photostat of a letterhead dated January 10, 1946. An invitation to a luncheon, 'Women of the United Nations,' held under auspices of the committee of women of the National Council of American-Soviet Friendship, December 12, 1946, New York City, listed Mrs. Mary McLeod Bethune as a member. She was shown as a member of the national council on a report to the membership of the board and officers of the national council at the annual membership meeting, April 23, 1952.

"In its report of March 20, 1944, the special committee cited the National Council of American-Soviet Friendship as having been 'in recent months, the Communist Party's principal front for all things Russian.' The Attorney General cited the national council as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, list.

"A letter of the American Committee for Protection of Foreign Born, opposing alien registration, carried the signature of Mary McLeod Bethune, as shown in the Daily Worker of November 23, 1939 (p. 3, columns 7-8); she was one of the sponsors of the fourth annual conference of the organization which was held in Washington, D.C., March 2-3, 1940 (as shown on a letterhead of the conference); a booklet entitled 'The Registration of Aliens' which was prepared and published by the American Committee for Protection of Foreign Born, lists Mrs. Bethune as one of the sponsors of that organization.

"The Attorney General cited the American Committee for Protection of Foreign Born as subversive and Communist in letters released June 1 and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 155), cited the American Committee for Protection of Foreign Born as 'one of the oldest auxiliaries of the Communist Party in the United States.'

"Mrs. Bethune was one of the sponsors of the League of Young Southerners which is the youth division of the Southern Conference for Human Welfare, as shown on a letterhead dated August 13, 1940; she was named in The Southern Patriot, for December 1946, as a member of the board of representatives (1947-48) of the Southern Conference; she was a member of the executive board, as shown on a leaflet of the conference entitled 'The South Is Closer Than You Think' (received about February 1947).

"The Southern Conference for Human Welfare was cited as a Communist-front organization which seeks to attract southern liberals on the basis of its seeming interest in the problems of the South although its professed interest in southern welfare is simply an expedient for larger aims serving the Soviet Union and its subservient Communist Party in the United States (Committee on Un-American Activities in report 592 of June 12, 1947). The special committee also cited the group as a Communist-front which received money from the Robert Marshall Foundation, one of the principal sources of the funds by which many Communist fronts operate (report of March 29, 1944).

"Mrs. Bethune received the New Masses award for greater interracial understanding at a dinner in her honor at the Hotel Commodore, New York City, January 14, 1946 (Daily Worker, January 7, 1946, p. 11, columns 1-2); she received a similar award for contributions made to promote democracy and interracial unity at the New Masses Second Annual Awards Dinner, as shown in New Masses for November 18, 1947 (p. 7).

"New Masses was cited as a nationally circulated weekly journal of the Communist Party * * * whose ownership was vested in the American Fund for Public Service (special committee report 1811 of March 29, 1944; also cited in committee reports of January 8, 1939, and June 23, 1942). It was cited also by the Attorney General as a Communist periodical (Congressional Record, vol. 88, pt. 6, p. 7447).

"Mary McLeod Bethune was an initiating sponsor of the Independent Citizens' Committee of the Arts, Sciences, and Professions as shown by the Daily Worker of December 24, 1944 (p. 14), and a letterhead of the group dated November 26, 1946.

"The Committee on Un-American Activities, in its Review of the Scientific and Cultural Conference for World Peace, April 19, 1949 (p. 2), cited the Independent Citizens' Committee of the Arts, Sciences, and Professions as a Communist-front organization."

FEBRUARY 13, 1950.

"Subject: Oscar Hammerstein II, national vice president, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"Oscar Hammerstein II signed a Call Upon the Film Industry To Revoke the Blacklist, released by the Theater Division of the Arts, Sciences, and Professions, as shown in an advertisement that appeared in Variety for December 1, 1948 (p. 21).

"The National Council of the Arts was cited as a Communist-front organization by the Committee on Un-American Activities in House Report 1954 dated April 26, 1950.

"Mr. Hammerstein was one of the initiating sponsors of the Independent Citizens Committee of the Arts, Sciences, and Professions, as shown in the Daily Worker of December 24, 1944 (p. 14); the name of one Oscar Hammerstein appeared on a list of the initiating sponsors of the same organization, as shown on their letterhead of November 26, 1946. The Independent Citizens Committee of Arts, Sciences, and Professions was cited as a Communist-front organization by the Committee on Un-American Activities in a Review of the Scientific and Cultural Conference for World Peace, released April 19, 1949.

"As shown in the Daily People's World of October 13, 1943 (p. 5), Oscar Hammerstein II was one of those who endorsed the Writers' Congress which was held October 1, 2, and 3, 1943, under the joint auspices of the University of California and the Hollywood Writers' Mobilization. As shown in the program of the Writers' Congress, he was a member of the Seminar on Song Writing in War. The Hollywood Writers' Mobilization was cited as subversive and Communist by the United States Attorney General (press releases of December 4, 1947, and September 21, 1948; also redesignated pursuant to Executive Order 10450, Attorney General Consolidated List, April 1, 1954).

"A letterhead dated February 28, 1946, of the Win-the-Peace Conference which was held in Washington, D.C., April 6-7, 1946, named Oscar Hammerstein II as one of the sponsors of that conference; the same information also appeared in the Call to a Win-the-Peace Conference. The National Committee To Win the Peace was formed at the Win-the-Peace Conference. The National Committee To Win the Peace was cited as subversive and Communist by the United States Attorney General (press releases of December 4, 1947, and September 21, 1948; also redesignated pursuant to Executive Order 10450, Attorney General consolidated list, April 1, 1954).

"One Oscar Hammerstein (II not shown) was a sponsor of the United Nations in America dinner held under the auspices of the American Committee for Protection of Foreign Born at the Hotel Biltmore, New York City, April 17, 1943, as shown on the invitation to the dinner. The United States Attorney General cited the American Committee for Protection of Foreign Born as subversive and Communist (press releases of June 1 and September 21, 1948; also redesignated pursuant to Executive Order 10450, Attorney General consolidated list, April 1, 1954). The special Committee on Un-American Activities, in a report dated March 20, 1944, cited the American Committee for Protection of Foreign Born as 'one of the oldest auxiliaries of the Communist Party in the United States.'

"In the Daily People's World of October 2, 1944 (p. 5), Oscar Hammerstein (II not shown) was named as an honorary member of the Association of Young Writers and Artists, an organization affiliated with the Southern Negro Youth Congress.

"The Southern Negro Youth Congress was cited as a Communist-front organization by the special Committee on Un-American Activities in a report dated January 3, 1940; the organization was cited as being subversive and 'among the affiliates and committees of the Communist Party, United States of America, which seek to alter the form of government of the United States by unconstitutional means' (U.S. Attorney General in press release of December 4, 1947; also redesignated pursuant to Executive Order 10450, Attorney General consolidated list, April 1, 1954).

dated list, April 1, 1954). The group was cited as being 'surreptitiously controlled' by the Young Communist League (Committee on Un-American Activities in report 271 of April 17, 1947)."

"FEBRUARY 13, 1956.

"Subject: William Lloyd Imes, national vice president, NAAOP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"William Lloyd Imes was one of those who signed a statement on December 14, 1939 (the day before the 148th anniversary of the Bill of Rights), 'warning against denying to the Communists, or to any other minority group, the full freedom guaranteed by the Bill of Rights' (letter signed by Dashiell Hammett dated January 1940, attached to the statement).

"A pamphlet entitled 'The People vs. H. O. I.' which was dated December 11-12, 1937, named William Lloyd Imes as one of the sponsors of the Consumers National Federation, publishers of the pamphlet.

"The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 155), cited the Consumers' National Federation as a Communist-front organization.

"He supported the National Negro Congress (Daily Worker, February 3, 1936, p. 2); spoke at the Second National Negro Congress in October 1937 (program of the congress); and supported a conference of the congress to push passage of the antilynch bill (Daily Worker, March 17, 1938, p. 4).

"The Attorney General of the United States cited the National Negro Congress as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list of organizations redesignated pursuant to Executive Order No. 10450. The organization was cited previously by the Attorney General as a Communist front (Congressional Record, vol. 88, pt. 6, p. 7447). The Special Committee on Un-American Activities, in its report of January 3, 1939 (p. 81), cited the National Negro Congress as 'the Communist-front movement in the United States among Negroes * * *.'

"William Lloyd Imes sponsored a dinner forum called by the Protestant Digest Associates on the subject, Protestantism Answers Hate, which was held in New York City, February 25, 1941.

"Protestant Digest was cited as 'a magazine which has faithfully propagated the Communist Party line under the guise of being a religious journal' (special Committee on Un-American Activities, report, March 29, 1944, p. 48).

"He signed a petition of the American Committee for Democracy and Intellectual Freedom, as shown on a mimeographed sheet attached to a letterhead dated January 17, 1940; and sponsored a citizens rally of the same organization, on April 13, 1940, in New York City (according to a leaflet announcing the rally).

"The Special Committee on Un-American Activities, in its report of June 25, 1942 (p. 13), cited the American Committee for Democracy and Intellectual Freedom as a Communist front which defended Communist teachers.

"William Lloyd Imes sponsored the Fourth Annual Conference of the American Committee for Protection of Foreign Born, as shown on a letterhead of the conference which was held in Washington, D.C., March 2 to 3, 1940.

"The Attorney General cited the American Committee for Protection of Foreign Born as subversive and Communist in letters to the Loyalty Review Board, released June 1 and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 155), cited the American Committee for Protection of Foreign Born as 'one of the oldest auxiliaries of the Communist Party in the United States.'

"Dr. Imes contributed to Fight magazine, official organ of the American League Against War and Fascism (Fight for August 1935, p. 4); he was chairman of a rally of the American League which was held in Harlem (Fight for September 1935, p. 14); he spoke at the National People's Committee Against Hearst of the American League (Daily Worker October 21, 1938, p. 4); he supported a statement of the League, addressed to the United States Congress (Daily Worker, February 27, 1937, p. 2); he was a member of the National People's Committee Against Hearst (letterhead of March 16, 1937); he spoke in

New York City at a joint meeting of the American League and American Friends of the Chinese People (Daily Worker, September 23, 1937, p. 2); and was one of the sponsors of the China Aid Council of the American League, as shown on a letterhead of the council dated May 18, 1938. As shown by the Daily Worker of April 6, 1937 (p. 5), Rev. William Lloyd Imes, pastor, St. James Presbyterian Church, was guest of honor at a dinner of the American League Against War and Fascism, April 6, 1937, New York City.

"The Attorney General cited the American League Against War and Fascism as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The organization was cited previously by the Attorney General as a 'Communist-front organization' (in re Harry Bridges, May 28, 1942, p. 10); and 'established in the United States in an effort to create public sentiment on behalf of a foreign policy adapted to the interests of the Soviet Union' (Congressional Record, vol. 88, pt. 6, p. 7442). The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 53), cited the American League Against War and Fascism as 'completely under the control of Communists.'

"A letterhead dated November 8, 1937, lists William Lloyd Imes as a member of the national executive committee, People's Congress for Democracy and Peace; he sponsored the Boycott Japanese Goods Conference of the American League for Peace and Democracy, February 5, 1938 (Daily Worker, Jan. 11, 1938, p. 2); he signed a letter of the American League, as was shown in the Daily Worker of February 23, 1938 (p. 2); he signed a statement of the league concerning the international situation (New Masses, Mar. 15, 1938, p. 19); a letterhead of the New York City Division of the American League named him as a member of the advisory board as of that date (September 22, 1938); a letterhead of the City Executive Committee, New York City Division, American League for Peace and Democracy, dated September 26, 1938, contained the name of the Reverend William Lloyd Imes in the list of members of the advisory board; he endorsed the American Congress for Peace and Democracy, January 6-8, 1939, in New York City, as shown on a letterhead dated December 7, 1938. A letterhead of the New York City Division, American League for Peace and Democracy, dated March 21, 1939, listed him as a member of the advisory board of the league. A letterhead of the Baltimore Division, American League for Peace and Democracy, dated May 18, 1939, contained the name of Dr. Imes in the list of members of the national committee; a letterhead of the league, dated July 12, 1939, furnished the same information, and also a pamphlet entitled '7½ Million * * *,' which was published by the league.

"The Attorney General cited the American League for Peace and Democracy as subversive and Communist in letters released June 1 and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Attorney General cited the organization previously as established in the United States in 1937 as successor to the American League Against War and Fascism 'in an effort to create public sentiment on behalf of a foreign policy adapted to the interests of the Soviet Union' (Congressional Record, vol. 88, pt. 6, p. 7442). The Special Committee on Un-American Activities, in its report of January 8, 1939 (pp. 69-71), cited the American League for Peace and Democracy as 'the largest of the Communist-front movements in the United States.'

"The Daily Worker of August 13, 1940 (p. 5), named Dr. Imes as one who endorsed the Emergency Peace Mobilization; he was one of the sponsors of the Greater New York Committee of the Emergency Peace Mobilization, as shown on an undated letterhead.

"The Attorney General cited the Emergency Peace Mobilization as follows: 'The American Peace Mobilization was formally founded at a meeting in Chicago at the end of August 1940, known as the Emergency Peace Mobilization' (Congressional Record, vol. 88, pt. 6, p. 7443). The Special Committee on Un-American Activities in its report of March 29, 1944, cited the Emergency Peace Mobilization as a Communist front which came forth, after Stalin signed his pact with Hitler, to oppose the national defense program, lend-lease, conscription, and other American warmongering efforts. It immediately preceded the American Peace Mobilization in 1940.

"Dr. Imes sponsored the Conference on Constitutional Liberties in America, as shown on the call to the conference, June 7, 1940; he signed a letter of the National Federation for Constitutional Liberties, addressed to Attorney General Jackson, in defense of ballot rights of minority parties (Daily Worker, Sept. 24,

1940, p. 1); he signed a statement of the federation, opposing use of injunctions in labor disputes, according to an advertisement which appeared in the New York Times of April 1, 1948, in which source he was identified as president of Knoxville College.

"The Special Committee on Un-American Activities cited the Conference on Constitutional Liberties in America as 'an important part of the solar system of the Communist Party's front organizations' (Report, Mar. 29, 1944, p. 102). The Attorney General cited the conference as one as a result of which was established the National Federation for Constitutional Liberties (Congressional Record, vol. 88, pt. 6, p. 7446).

"The Attorney General cited the National Federation for Constitutional Liberties as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Attorney General cited the organization previously as 'part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program * * *' (Congressional Record, vol. 88, pt. 6, p. 7446). The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 50), cited the National Federation for Constitutional Liberties as 'one of the viciously subversive organizations of the Communist Party.'

"Dr. Imes signed on open letter of the National Emergency Conference for Democratic Rights (Daily Worker, May 13, 1940, pp. 1 and 5); he was one of the sponsors of the Conference on Pan-American Democracy, as shown on a letterhead of that group dated November 16, 1938.

"The National Emergency Conference for Democratic Rights was cited as a Communist-front organization by the special committee in its report of March 29, 1944 (pp. 48 and 102). The Committee on Un-American Activities, in its report of September 2, 1947 (p. 12), cited the National Emergency Conference for Democratic Rights as follows: 'It will be remembered that during the days of the infamous Soviet-Nazi pact, the Communists built protective organizations known as the National Emergency Conference, the National Emergency Conference for Democratic Rights, which culminated in the National Federation for Constitutional Liberties.'

"The Conference on Pan-American Democracy (known also as Council for Pan-American Democracy) was cited as subversive and Communist by the Attorney General in letters released June 1 and September 21, 1948; redesignated April 27, 1953, pursuant to Executive Order No. 10450. The special Committee on Un-American Activities, in its report of March 29, 1944 (pp. 161 and 164), cited the Conference on Pan-American Democracy as a Communist front which defended Carlos Luis Prestes, a Brazilian Communist leader and former member of the executive committee of the Communist International.

"Dr. Imes was one of the sponsors of the Greater New York Emergency Conference on Inalienable Rights, as shown on the program of the conference, February 12, 1940. He spoke before the American Youth Congress (Daily Worker, Jan. 29, 1938, p. 3); and endorsed the American Youth Act, as shown on a press release of the American Youth Congress.

"The special Committee on Un-American Activities, in its March 29, 1944, report (pp. 96 and 129), cited the Greater New York Emergency Conference on Inalienable Rights as a Communist front which was succeeded by the National Federation for Constitutional Liberties. The organization was cited by the Committee on Un-American Activities (report, Sept. 2, 1947, p. 3), as among a 'maze of organizations' which were 'spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law.'

"The American Youth Congress was cited as subversive and Communist by the Attorney General in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The group was cited previously by the Attorney General as 'originated in 1934 and * * * has been controlled by Communists and manipulated by them to influence the thought of American youth' (Congressional Record, vol. 88, pt. 6, p. 7444). The Special Committee on Un-American Activities, in its report of June 25, 1942 (p. 16), cited the American Youth Congress as 'one of the principal fronts of the Communist Party' and 'prominently identified with the White House picket line * * *'

"According to the proceedings and report, and to 'Equal Justice' for July 1939, he sent greetings to the National Conference of the International Labor Defense. He signed a letter to President Roosevelt, defending the publication, *New Masses* (issue of April 2, 1940, p. 21).

"The Attorney General cited the International Labor Defense as subversive and Communist in letters released June 1 and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The group was cited previously by the Attorney General as the 'legal arm of the Communist Party' (Congressional Record, vol. 88, pt. 6, p. 7446). The special Committee on Un-American Activities in its report of January 3, 1939 (pp. 75-78), cited the International Labor Defense as 'the legal defense arm of the Communist Party of the United States.'

"*New Masses* was cited as a 'Communist periodical' by the Attorney General (Congressional Record, vol. 88, pt. 6, p. 7448). The Special Committee on Un-American Activities, in its report of March 29, 1944 (pp. 48 and 75), cited *New Masses* as a 'nationally circulated weekly journal of the Communist Party * * *.'

"FEBRUARY 13, 1956.

"Subject: Ira W. Jayne, national vice president, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"Ira Walte Jayne was a member of the National Lawyers Guild in 1939, as shown by a list of the membership for that year which was made available to the special Committee on Un-American Activities; Ira W. Jayne was national vice president of the guild, as shown by a letterhead of that organization, dated May 10, 1946; Judge Ira W. Jayne was a member of the arrangements committee for the 5th annual convention of the guild, which was held at the Book-Cadillac Hotel in Detroit, Mich., May 29-June 1, 1941 (Convention News for May 1941 (p. 3) published by the National Lawyers Guild for the 5th annual convention); Judge Ira W. Jayne was toastmaster at a banquet at the same convention (convention program printed in Convention News, May 1941 (p. 2) published by the National Lawyers Guild for the 5th annual convention).

"Ira Walte Jayne was vice president of the National Lawyers Guild, as shown by a letterhead dated June 11, 1947; by the program of the National Lawyers Guild on Legislative Investigation or Thought Control Agency, dated October 20, 1947 (p. 4); the Daily Worker, February 24, 1948 (p. 3); and a letterhead of the guild dated March 8, 1948.

"Ira W. Jayne is listed as a member of the executive board of the Detroit chapter of the National Lawyers Guild and its national vice president, on a letterhead dated March 19, 1958; Ira Walte Jayne was listed as vice president of the guild on the letterhead of the organization dated May 7, 1948—a letter sent to Members of Congress by Robert J. Silberstein, executive secretary of the guild, attacking the Mundt-Nixon anti-Communist bill.

"The National Lawyers Guild was cited as a Communist front by the special Committee on Un-American Activities in its report of March 29, 1944 (p. 149); the Committee on Un-American Activities cited the guild as a Communist front which 'is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents' (report on the National Lawyers Guild, H. Rept. No. 8123, September 17, 1950).

"The Daily Worker, March 14, 1936 (p. 4) named Ira Jayne as treasurer of the Scottsboro Defense Committee in Detroit, Mich.

"The Scottsboro Defense Committee was cited as a Communist front by the special Committee on Un-American Activities in reports dated January 3, 1939 (p. 82) and March 29, 1944 (p. 177)."

"FEBRUARY 13, 1956.

"Subject: Dr. W. Montague Cobb, member of national board of directors, chairman of the national health committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"According to the Bookshopper for July 1948 (p. 2), Montague Cobb, professor, Howard University, lectured at a membership meeting in January 1948 of the Washington Cooperative Bookshop, 916 17th Street NW., Washington, D.C.

"The Attorney General of the United States found that 'evidence of Communist penetration or control[of the Washington Cooperative Bookshop] is reflected in the following: Among its stock the establishment has offered prominently for sale books and literature identified with the Communist Party and certain of its affiliates and front organizations * * * certain of the officers and employees of the bookshop, including its manager and executive secretary, have been in close contact with local officials of the Communist Party of the District of Columbia' (Congressional Record, vol. 88, pt. 6, p. 7447); subsequently, it was cited by the Attorney General as subversive and Communist (press releases of December 4, 1947, and September 21, 1948; also included on consolidated list of April 1, 1954). The special Committee on Un-American Activities cited the organization as a Communist front (report 1311 of March 20, 1944).

"Dr. W. Montague Cobb, identified as professor of anatomy, Howard University, spoke at the 1947 Convention of the Association of Internes and Medical Students, according to their official organ, the Interne (January 1948, p. 61); the same publication (February 1950, p. 27) reported that he had spoken at a convention of the organization; the printed program of the 16th Convention of the Association of Internes and Medical Students which was held in December 1950, revealed that he had spoken at the convention.

"The Association of Internes and Medical Students was cited as an organization which 'has long been a faithful follower of the Communist Party line,' and which supported the International Union of Students' Second World Student Congress in Prague in August 1950 (report of the Committee on Un-American Activities on the Communist Peace Offensive, dated April 1, 1951).

"An advertisement which appeared in the Washington Post of May 18, 1948 (p. 15), disclosed the name of Dr. W. Montague Cobb as having signed a statement against the Mundt (anti-Communist) bill."

"FEBRUARY 13, 1956.

"Subject: Westley W. Law, Savannah, Ga., national board of directors, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"An undated press release, General Youth Statement (p. 3), listed W. W. Law, Savannah, Ga., as an endorser of the Youth Statement of the Mid-Century Conference for Peace (May 29-30, 1950).

"The Committee on Un-American Activities, in its report on the Communist Peace Offensive, April 1, 1951 (p. 58), cited the Mid-Century Conference for Peace at a meeting held in Chicago, May 29 and 30, 1950, by the Committee for Peaceful Alternatives to the Atlantic Pact and as having been 'aimed at assembling as many gullible persons as possible under Communist direction and turning them into a vast sounding board for Communist propaganda.'

"The Daily Worker of June 23, 1949 (p. 2), reported that W. W. Law, past national chairman, National Association for Advancement of Colored People, youth division, Savannah, Ga., signed a statement against the North Atlantic Pact."

"FEBRUARY 13, 1956.

"Subject: Dr. J. M. Tinsley, national board of directors, national health committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"As shown by the official proceedings of the National Negro Congress, 1936 (pp. 5, 41), Dr. J. M. Tinsley, Virginia, was a member of the presiding committee and a member of the national executive council of the organization. J. M. Tinsley, Richmond, was treasurer of the National Negro Congress (Daily Worker, Apr. 7, 1936, p. 3).

"The Attorney General of the United States cited the National Negro Congress as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list of organizations designated previously pursuant to Executive Order No. 10450. The organization was cited previously by the Attorney General as a Communist-front group (Congressional Record, vol. 88, pt. 6, p. 7447). The Special Committee on Un-American Activities, in its report of January 3, 1939 (p. 81), cited the National Negro Congress as 'the Communist-front movement in the United States among Negroes * * *.'

"J. M. Tinsley endorsed the Southern Negro Youth Congress (Daily Worker, Feb. 25, 1938, p. 3).

"The Southern Negro Youth Congress was cited by the Attorney General as subversive and among the affiliates and committees of the Communist Party, U.S.A., which seeks to alter the form of government of the United States by unconstitutional means (letter released Dec. 4, 1947; redesignated Apr. 27, 1953, and included on Apr. 1, 1954, consolidated list). The Special Committee on Un-American Activities, in its report of January 3, 1940 (p. 9), cited the Southern Negro Youth Congress as a Communist-front organization. The Committee on Un-American Activities, in its report of April 17, 1947 (p. 14), cited the Southern Negro Youth Congress as 'surreptitiously controlled' by the Young Communist League."

"FEBRUARY 13, 1956.

"Subject: William H. Hastie, national board of directors, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"In 1940, William H. Hastie represented the Abolish Peonage Committee of the International Labor Defense at a conference with the Department of Justice in Washington, D.C., as shown in Equal Justice for April 1940 (p. 3), and in the winter (1941) issue of the same publication (p. 28).

"The International Labor Defense was cited by the Attorney General as 'subversive' and 'Communist' and as the 'legal arm of the Communist Party' in letters released June 1 and September 21, 1948, and included on a consolidated list on April 1, 1954, and in the Congressional Record, volume 88, part 6, page 7687, respectively. The Committee on Un-American Activities, in its report of September 2, 1947 (pp. 1 and 2), cited the International Labor Defense as 'part of an international network of organizations for the defense of Communist law-breakers.'

"William H. Hastie was one of the sponsors of the Conference on Constitutional Liberties in America, at which the National Federation for Constitutional Liberties was launched (program leaflet, Call to a Conference on Constitutional Liberties in America, June 7, 1940, p. 4). He signed a statement sponsored by the national federation, hailing the War Department's order on commissions for Communists; he was identified in this connection as dean, Howard University Law School (the Worker for Mar. 18, 1945, p. 2); his photograph appeared in this issue of the Worker (Sunday edition of the Communist Daily Worker), along with the text of the statement and a list of those who signed it.

"The National Federation for Constitutional Liberties was cited by the Attorney General as 'subversive' and 'Communist' and as 'part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program' in letters released December 4, 1947, and September 21, 1948; the Congressional Record, volume 88, part 6, page 7440, and included on the Attorney General's consolidated list of April 1, 1954. The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 50), cited the National Federation for Constitutional Liberties as 'one of the viciously subversive organizations of the Communist Party.'

"A 1939 membership list of the National Lawyers Guild contains the name of William H. Hastie, identified as a judge whose address was St. Thomas, Virgin Islands; in 1939, he was a candidate for delegate to the national convention of the guild, administrative slate, Washington, D.C., chapter (election campaign letter, May 18, 1940); he was a member of the convention resolutions committee (Convention News, May 1941, p. 2), and identified in this source as being from Washington, D.C. A letterhead of the guild, dated June 11, 1947, listed the name of the Honorable William H. Hastie, Virgin Islands, as vice president of the guild. A printed program of the guild, entitled 'Legislative Investigation? or Thought Control Agency,' dated October 20, 1947, also listed the name of the Honorable William H. Hastie, Governor, Virgin Islands, as vice president of the guild; he was also vice president in 1948 (Daily Worker for February 24, 1948, p. 3; letterhead of the guild dated March 8, 1948; and a letterhead dated May 7, 1948). The Daily Worker of November 30, 1942 (p. 1), printed the text of a report adopted by the national executive board of the National Lawyers Guild; the report was submitted by Thurgood Marshall, special counsel of the National Association for the Advancement of Colored People, and William H. Hastie, dean of Howard University Law School.

"The National Lawyers Guild was cited as a Communist front which 'is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents' (Committee on Un-American Activities, report on the National Lawyers Guild, September 21, 1950).

"One William Hastie, Washington, D.C., endorsed the call for National Negro Congress, February 14, 1936, in Chicago, Ill. According to the Official Proceedings of the National Negro Congress, 1936 (p. 5), he was a member of the presiding committee of this congress. Also in this same publication on page 40, he is listed as a member of the national executive council for the congress. In a report on the Southern Conference for Human Welfare, released by the Committee on Un-American Activities June 16, 1947, William H. Hastie was listed as one of the sponsors of the conference (report No. 592, p. 15). He presided at a dinner meeting of the southern conference, May 22, 1946, as reported in the Washington Evening Star of May 23, 1946 (p. A-4); a leaflet entitled 'Look Southward Angel' revealed the name of William H. Hastie as vice president, Washington committee, Southern Conference for Human Welfare. In the official report of a conference of the group, held in Nashville, Tenn., April 19-21, 1942, the name of William H. Hastie appeared as consultant, 'Panel III Youth and Training: Civilian and Military'; he was identified as civilian aide to the Secretary of War, Washington, D.C.

"The Attorney General cited the National Negro Congress as 'subversive' and 'Communist' and as 'sponsored and supported by the Communist Party' in letters released December 4, 1947, and September 21, 1948 (Congressional Record, vol. 88, pt. 6, p. 7447), and included on the Attorney General's consolidated list of April 1, 1954. The special committee, in its report of January 3, 1939 (p. 81), cited the National Negro Congress as 'the Communist-front movement in the United States among Negroes * * *.'

"The Committee on Un-American Activities, in its report of June 12, 1947, cited the Southern Conference for Human Welfare as a Communist-front organization 'which seeks to attract southern liberals on the basis of its seeming interest in the problems of the South' although its 'professed interest in southern welfare is simply an expedient for larger aims serving the Soviet Union and its subservient Communist Party in the United States.'

"William H. Hastie was one of the sponsors of a conference on civil rights, April 20-21, 1940, held under the auspices of the Washington Committee for Democratic Action (call to the conference, p. 4). Attorney General Francis

Biddle cited the Washington Committee for Democratic Action as an affiliate or local chapter of the National Federation for Constitutional Liberties (Congressional Record, vol. 88, pt. 6, p. 7448). On April 1, 1954, he included it on his consolidated list.

'The Communist Daily Worker of May 10, 1948 (p. 6), reported that William H. Hastie, governor of the Virgin Islands, 'charged that the United States Government practically robs the island government of its own sorely needed internal revenue taxes, which are dumped into the United States Treasury.'

'In the Daily Worker of July 15, 1949 (p. 3), it was reported that 'Gov. William H. Hastie of the Virgin Islands defends "radicals of every persuasion" before the 40th annual convention of the National Association for the Advancement of Colored People currently meeting in Los Angeles; Hastie, first Negro governor of an island possession, lambasted local, State, and Federal authorities who pretend to be neutral in matters between aggrieved minorities and those who seek to maintain the inequalities of our society.'

'The Daily People's World of August 5, 1949 (p. 3), reported that Gov. William Hastie, of the Virgin Islands, had been recommended for appointment to the Supreme Court of the United States by Carey McWilliams, a well-known lawyer on the west coast who has defended Communists.'

"FEBRUARY 13, 1950.

"Subject: Earl G. Harrison, national board of directors, NAACP, 1934.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"The Communist Daily Worker of October 20, 1943 (p. 4) reported that Earl G. Harrison had spoken before the American Committee for Protection of Foreign Born. An invitation issued by Donald Ogden Stewart to attend a 'United Nations in America' dinner in New York City, April 17, 1943, arranged under the auspices of the American Committee for Protection of Foreign Born, showed that the 'Honorable Earl G. Harrison, United States Commissioner of Immigration and Naturalization will be presented with the Annual Award by the Honorable Vito Marcantonio on behalf of the American Committee for Protection of Foreign Born.'

"The American Committee for Protection of Foreign Born was cited as 'one of the oldest auxiliaries of the Communist Party in the United States' (special Committee on Un-American Activities, report 1311, of March 29, 1944). It was also cited as subversive and Communist by the United States Attorney General in lists furnished the Loyalty Review Board (press releases of June 1 and September 21, 1948). The organization was included on the Attorney General's consolidated list released April 1, 1951.

"Reference to Earl G. Harrison was made on the floor of the Senate, June 19, 1948 (Congressional Record, vol. 94, pt. 7, p. 9023).

"Earl G. Harrison signed a statement reprinted in the Congressional Record, volume 93, part 11, pages A2450-A2460, at the request of the Honorable James E. Murray of Montana. The statement was 'made by 87 leading American liberals, setting forth what they consider to be a standard of political conduct for those who believe in liberalism or progressivism as a middle way between the extremes of reaction and communism—the true highway toward the fullest achievement of American democracy. This statement of liberalism accuses the American Communist Party and its sympathizers of an un-American lack of forthrightness, and announces the refusal to associate with American Communists as a proper and responsible requirement for anyone who is to be of practical help to the cause of liberalism in the United States. The statement of these 87 liberal leaders draws a proper distinction between association with American Communists and their sympathizers, on the one hand, and, on the other, an objective attitude toward the problems of Russia and a hope for peaceful relations with that country * * *.'

"The article was accompanied by a list of individuals who had signed the statement, in which source Mr. Harrison was identified as Dean of the Law School, University of Pennsylvania.

"The Daily Worker of June 26, 1952 (p. 8) printed an article datelined Cape May, N.J., June 25, which stated that 'Witchhunts threaten liberty in America,

Earl G. Harrison, former dean of the University of Pennsylvania Law School, warned here, in an address to some 2,500 Quakers at the Friends General Conference. Harrison said: Investigations, witchhunts, and guilt by association without the fairness of trial are all part of our feverish zeal to wipe out any suspected subversive threat to democracy—a zeal that is itself the greatest blow to liberty.””

“FEBRUARY 14, 1956.

“Subject: Dr. Harry J. Greene, Philadelphia, Pa., national board of directors, national health committee, NAAOP, 1954.

“The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

“On the call to a Conference on Constitutional Liberties in America at Washington, D.C., June 7-9, 1940, the name of Dr. Harry J. Greene of Philadelphia, Pa., appears in a list of the sponsors. He was one of the sponsors of the National Federation for Constitutional Liberties, as shown on their letterheads dated September 10 and November 6, 1940, in which sources he is shown as being from Philadelphia.

“The printed program of a National Action Conference for Civil Rights which was scheduled to be held in Washington, D.C., April 19-20, 1941, named Dr. Harry J. Greene, Philadelphia, as one of the sponsors of that conference, called by the National Federation for Constitutional Liberties.

“The Attorney General of the United States cited the National Federation for Constitutional Liberties (formed as a result of the Conference on Constitutional Liberties in America, June 7-9, 1940), as ‘part of what Lenin called the solar system of organizations * * * by which Communists attempt to create sympathizers and supporters of their programs’; and as subversive and Communist. (Congressional Record, vol. 88, pt. 6, p. 7446; and press releases of Dec. 4, 1947, and Sept. 21, 1948, respectively; also included on consolidated list released Apr. 1, 1954.) The Special Committee on Un-American Activities cited the National Federation for Constitutional Liberties as ‘one of the viciously subversive organizations of the Communist Party’ (report of Mar. 29, 1944; also cited in reports of June 25, 1942, and Jan. 2, 1943). The Committee on Un-American Activities also cited the National Federation for Constitutional Liberties in a report released September 2, 1947.

“Dr. Harry J. Greene was chairman of a discussion group on ‘Denial of Citizenship Rights’ at the Second National Negro Congress, October 15-17, 1937, in Philadelphia, as shown on the printed program of that congress (p. 19), in which source he is identified as being from Philadelphia, Pa., and president of the Philadelphia branch, National Association for the Advancement of Colored People. A booklet of the National Negro Congress entitled ‘We Are Rising’ (April 1939, p. 2) named one Harry Green as vice president, Philadelphia council of the congress.

“The Special Committee on Un-American Activities cited the National Negro Congress as ‘the Communist-front movement in the United States among Negroes’ (report of Jan. 3, 1939; also cited in reports of Jan. 3, 1940; June 25, 1942; and Mar. 20, 1944). The Attorney General cited the Congress as ‘an important sector of the democratic front, sponsored and supported by the Communist Party’ (Congressional Record, vol. 88, pt. 6, p. 7447); later, the Attorney General cited the congress as subversive and Communist (press releases of Dec. 4, 1947, and Sept. 21, 1948; also included on consolidated list released Apr. 1, 1954).”

“FEBRUARY 18, 1956.

“Subject: Roscoe Dunjee, national board of directors, NAAOP, 1954.

“The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

“The Daily Worker for April 10, 1947 (p. 2), reported that Roscoe Dunjee, attorney, Oklahoma City, Okla., was one of the signers of a statement defending the Community Party. He was one of the signers of a statement condemning

'punitive measures directed against the Communist Party' as shown by the April 20, 1947, issue of the Worker (p. 8). The Daily Worker of April 27, 1947 (p. 24), shows Roscoe Dunjee as one of the signers of a statement against the ban on the Communist Party. Roscoe O. Dunjee, publisher of the Black Dispatch, Oklahoma City, was a sponsor of a statement attacking the arrest of the Communist Party leaders, according to the Daily Worker, August 23, 1948 (p. 8). He sponsored the 'Statement by Negro Americans' in behalf of the arrested Communist leaders as shown by the August 29, 1948, issue of the Worker (p. 11). The Daily Worker for March 7, 1950 (p. 4), reported that Roscoe Dunjee attacked Judge Medina in the case of the Communist leaders.

"Roscoe Dunjee was a member of the inflating committee, of the Congress on Civil Rights held in Detroit, Mich., April 27 and 28, 1946, as shown by the summons to the congress. The Daily Worker of April 16, 1947 (p. 2), reported that Roscoe Dunjee, of Oklahoma City, Okla., was one of the signers of a statement released by the Civil Rights Congress defending the Communist party. The Civil Rights Congress was cited as subversive and Communist by the Attorney General of the United States (letters to the Loyalty Review Board, 1947 and 1948; included in the consolidated list released Apr. 1, 1954.) The Committee on Un-American Activities cited the organization as being 'dedicated not to the broader issues of civil liberties, but specifically to the defense of individual Communists and the Communist Party' and 'controlled by individuals who are either members of the Communist Party or openly loyal to it' (report No. 1115, Sept. 2, 1947, pp. 2 and 19).

"The pamphlet Seeing Is Believing, 1947, and the testimony of Walter S. Steele, public hearings, Committee on Un-American Activities, July 21, 1947 (p. 135), show Roscoe Dunjee as a member of the Council on African Affairs, Inc. The Council on African Affairs was cited as subversive and Communist by the United States Attorney General (letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948. He redesignated the organization on April 27, 1953; also included in consolidated list released April 1, 1954.)

"Roscoe Dunjee was a sponsor of the Win the Peace Conference of the National Committee to Win the Peace, as shown by the Daily Worker March 5, 1946, a letterhead of the organization dated February 28, 1946, and the call to a win-the-peace conference, National Press Building, Washington, D.C., April 5-7, 1946. The National Committee To Win the Peace was cited as subversive and Communist by the United States Attorney General (letters to the Loyalty Review Board, released in 1947 and 1948; redesignated April 27, 1953; also included in consolidated list released April 1, 1954).

"The Daily Worker for October 19, 1948 (p. 7), reported that Roscoe Dunjee was one of those who signed a statement released by the National Council of the Arts, Sciences, and Professions. The council was cited as a Communist front by this committee in its review of the Scientific and Cultural Conference for World Peace (April 26, 1950—original release date April 19, 1949, p. 2).

"Roscoe Dunjee was a signer of the call to the Second Southern Conference for Human Welfare, Chattanooga, Tenn., April 14-16, 1940. A letterhead of the conference, dated June 4, 1947, shows Roscoe Dunjee as vice president and a member of the national committee of that organization. He was also shown as vice president of the organization in an undated leaflet, The South Is Closer Than You Think, and the testimony of Walter S. Steele, public hearings, Committee on Un-American Activities, July 21, 1947, page 189. The Southern Conference for Human Welfare was cited as a Communist front which received money from the Robert Marshall Foundation, one of the principal sources of funds by which many Communist fronts operate. (Special Committee on Un-American Activities, report, March 29, 1944, p. 147.) In its report of June 12, 1947, the Committee on Un-American Activities described the conference as a Communist-front organization 'which seeks to attract southern liberals on the basis of its seeming interest in the problems of the South,' although its 'professed interest in southern welfare is simply an expedient for larger aims serving the Soviet Union and its subservient Communist Party in the United States.'

"The New York Times of October 9, 1944 (p. 12), reported that Roscoe Dunjee was one of the signers of an open letter to Gov. Thomas E. Dewey for the pardon of Morris U. Schappes, which was sponsored by the Schappes Defense Committee. The Schappes Defense Committee was cited as a Communist organization by the United States Attorney General (letter to the Loyalty Review Board, released April 27, 1949; redesignated April 27, 1953). The special Committee on Un-American Activities described the Schappes Defense Committee as 'a front

organization with a strictly Communist objective, namely, the defense of a self-admitted Communist who was convicted of perjury in the courts of New York.' Morris U. Schappes 'was on the teaching staff of the College of the City of New York for a period of 13 years. In 1936 his superior on the college faculty refused to recommend him for reappointment. This action led to prolonged agitation by the Communist Party' (report, March 29, 1944, p. 71).

"Roscoe Dunjee was a member of the advisory board of the Southern Negro Youth Congress according to a letterhead of that organization dated June 12, 1947, the testimony of Walter S. Steele, public hearings, Committee on Un-American Activities, July 21, 1947 (p. 97), a letterhead dated August 11, 1947, and a page from a leaflet published by the organization. The Southern Negro Youth Congress was cited as subversive and among the affiliates and committees of the Communist Party, U.S.A., 'which seeks to alter the form of government of the United States by unconstitutional means' (U.S. Attorney General, letter to Loyalty Review Board, released December 4, 1947; redesignated April 27, 1953; also included in consolidated list released April 1, 1954). The Committee on Un-American Activities said it was 'surreptitiously controlled' by the Young Communist League (report No. 271, April 17, 1947, p. 14). The special Committee on Un-American Activities also cited the organization as a Communist front (report, January 3, 1940, p. 9).

"According to the Daily Worker for April 1, 1945 (p. 6m), Roscoe Dunjee was asked what he thought of New York's new antidiscrimination law, and was quoted as replying: 'It shows a trend in the direction which the United States as a nation must take if we rise to the level of Russian morality * * *.'

"Photographs of Roscoe Dunjee are found in the Daily Worker, issues of December 9, 1941 (p. 7), and April 1, 1945 (p. 6m).

"Roscoe Dunjee, editor of the Black Dispatch, Oklahoma City, Okla., was quoted in the March 28, 1944, issue of New Masses (p. 15), as follows:

"I attended a Lincoln and Douglas meeting held under the auspices of the Communist Party, February 12 * * * Most assuredly Americans should stop and listen to what Communists have to say. The Russian experiment as expressed today in Soviet life is too effective for anyone to attempt to overlook this. As president of the state conference of branches of the National Association for the Advancement of Colored People, I have every year for the past 10 invited the Communist to address our meeting. Alan Shaw, secretary of the Communist Party in Oklahoma, addressed our State conference at Tulsa last November * * * personally I endorse the idea of an international State * * * as espoused by the Communist Party.'

"The following is quoted from the Daily Worker of April 8, 1952 (p. 2):

"Roscoe Dunjee, editor of the Oklahoma Black Dispatch, leading Negro newspaper in the Southwest, has hailed in a long editorial the victory won by William L. Patterson, head of the Civil Rights Congress, in securing acquittal on a contempt of Congress charge.'

"(Note citation of Civil Rights Congress on p. 1 of this report.)

"Roscoe C. Dunjee, Oklahoma City, was listed as 1 of 4 sponsors of a statement which appeared in the Sunday Worker, August 29, 1948 (p. 11), from which the following is quoted:

"THE FIRST LINE OF DEFENSE

"(Statement by Negro Americans to the President and Attorney General of the United States)

"We, the undersigned Negro Americans, strongly condemn your hysteria-breeding arrests of national leaders of the Communist Party, and call upon you to take positive action to protect civil rights instead of persecuting political minorities.

"We raise here no defense of the principles of the Communist Party. Our concern is to defend the right of political and other minorities, especially the Negro people, to fight for the kind of society which they consider necessary to give full expression to the principles of American democracy * * *

"The obvious purpose of these Gestapo-like arrests of Communist leaders is to frighten people away from the Wallace movement and progressive people's organizations generally, practically all of which have been slandered as Communist or subversive * * *

"We call upon our Government to halt its Fascist-like attacks upon opposition minorities, and to act for the protection of minority rights * * *"

"FEBRUARY 13, 1963.

"Subject: Dr. S. Ralph Harlow, national board of directors, NAACP, 1954.

"The public records, files and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"The program of the fifth national conference of the American Committee for Protection of Foreign Born, Atlantic City, N.J., March 29-30, 1941, listed S. Ralph Harlow as a sponsor.

"The Attorney General of the United States cited the American Committee for Protection of Foreign Born as subversive and Communist in letters to the Loyalty Review Board, released June 1 and September 21, 1948. The organization was redesignated by the Attorney General April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list of organizations previously designated. The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 155), cited the American Committee for Protection of Foreign Born as 'one of the oldest auxiliaries of the Communist Party in the United States.'

"S. Ralph Harlow was an endorser of the Committee for Citizenship Rights as shown by a letterhead dated January 10, 1942. The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 95), cited the Committee for Citizenship Rights as an organization which defended the 'interests of the Communist Party.' The Committee on Un-American Activities, in its report of September 2, 1947 (p. 3), cited the Committee for Citizenship Rights as among a 'maze of organizations' which were 'spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law.'

"Prof. S. Ralph Harlow signed a statement calling for international agreement to ban use of atomic weapons attached to a press release of the Committee for Peaceful Alternatives to the Atlantic Pact, December 14, 1949 (p. 9). He was identified in this instance as associated with Smith College, Northampton, Mass.

"The Committee on Un-American Activities, in its report on the Communist Peace Offensive, April 1, 1951 (p. 64), cited the Committee for Peaceful Alternatives to the Atlantic Pact as an organization which was formed as a result of the Conference for Peaceful Alternatives to the Atlantic Pact, and which was located according to a letterhead of September 18, 1950, at 30 North Dearborn Street, Chicago, Ill.; and to further the cause of Communists in the United States doing their part in the Moscow campaign.

"As shown by Soviet Russia Today of November 1937 (p. 79), S. Ralph Harlow was a signer of the Golden Book of American Friendship with the Soviet Union, cited as a 'Communist enterprise' signed hundreds of well-known Communists and fellow travelers.

"January 23-25, 1948, New York City, conference call of the National Conference on American Policy in China and the Far East, listed Dr. S. Ralph Harlow, Smith College, as a sponsor of the conference. The Attorney General cited the National Conference on American Policy in China and the Far East as Communist, and a conference called by the Committee for a Democratic Far Eastern Policy in a letter released July 25, 1949; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list.

"A news release of the National Federation for Constitutional Liberties dated December 28, 1941, listed S. Ralph Harlow as a signer. He signed the organization's 1943 message to the House of Representatives (leaflet, attached to undated letterhead); and the group's statement supporting the War Department's order on granting commissions to members of the Armed Forces who have been members of or sympathetic to the views of the Communist Party (undated leaflet, 'the only sound policy for a democracy * * * and Daily Worker, March 19, 1945, p. 4).

"The Attorney General cited the National Federation for Constitutional Liberties as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The organization was cited previously by the Attorney General as part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program (Congressional Record,

vol. 88, pt. 6, p. 7448). The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 50), cited the National Federation for Constitutional Liberties as one of the viciously subversive organizations of the Communist Party. The Committee on Un-American Activities, in its report of September 2, 1947 (p. 3), cited the National Federation for Constitutional Liberties as among a maze of organizations which were spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law.

"As shown by the Daily Worker of September 17, 1940 (pp. 1, 5), S. Ralph Harlow signed a telegram of the New York Conference for Inalienable Rights to President Roosevelt and Attorney General Jackson in behalf of the International Fur and Leather Workers Union defendants. The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 149), cited the New York Conference for Inalienable Rights as a Communist-front group.

"S. Ralph Harlow sponsored the call for the Protestantism Answers Hate dinner-forum held under auspices of the Protestant Digest, New York, February 25, 1941, as shown by a leaflet. He was identified in this instance as professor of sociology, Smith College, Northampton, Mass.

"The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 48), cited the Protestant Digest as 'a magazine which has faithfully propagated the Communist Party line under the guise of being a religious journal.'

"According to the New York Times, October 9, 1944 (p. 12), S. Ralph Harlow, chairman, department of religion, Smith College, Northampton, Mass., signed an open letter of the Schappes defenses committee to Gov. Thomas E. Dewey asking a pardon for Morris Schappes.

"The Schappes defense committee was cited as Communist by the Attorney General in a letter released April 27, 1949; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Special Committee on Un-American Activities cited the organization as 'a front organization with a strictly Communist objective, namely, the defense of a self-admitted Communist who was convicted of perjury in the courts of New York.' (Report, Mar. 29, 1944, p. 71).

"Prof. S. Ralph Harlow endorsed the World Peace Appeal as shown by an undated leaflet, Prominent Americans Call for * * * (received Sept. 11, 1950), and the Daily Worker, August 14, 1950 (p. 2).

"The Committee on Un-American Activities, in its report on the Communist Peace Offensive, April 1, 1951 (p. 34), cited the World Peace Appeal as a petition campaign launched by the Permanent Committee of the World Peace Congress at its meeting in Stockholm, March 18-19, 1950; as having 'received the enthusiastic approval of every section of the international Communist hierarchy'; as having been lauded in the Communist press, putting 'every individual Communist on notice that he "has duty to rise to this appeal"'; and as having 'received the official endorsement of the Supreme Soviet of the U.S.S.R., which has been echoed by the governing bodies of every Communist satellite country, and by all Communist parties throughout the world.'"

"FEBRUARY 13, 1956.

"Subject: Robert C. Weaver, national board of directors, NAAOP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"Robert C. Weaver, identified from Washington, D.C., and as economic adviser to the Secretary of the Interior, was discussion leader of a panel on 'The Federal Housing Program and the Negro' at the Second National Negro Congress as shown by the program of that congress which was held in Philadelphia, October 15-17, 1927.

"The National Negro Congress was cited as subversive and Communist by the Attorney General of the United States in letters released December 4, 1947, and September 21, 1948. The special committee in its report of January 3, 1939 (p. 81), cited the National Negro Congress as 'the Communist-front movement in the United States among Negroes.' The Attorney General had cited the group previously as follows: 'From the record of its activities and the composition of its governing bodies, there can be little doubt that it has served what James M.

Ford, Communist vice-presidential candidate elected to the executive committee in 1937, predicted: "An important sector of the democratic front," sponsored and supported by the Communist Party' (Congressional Record, vol. 88, pt. 6, p. 7447).

"The Daily Worker of February 8, 1939 (p. 2), listed Robert C. Weaver, identified as Assistant Housing Administrator of the Department of Interior, as one of the signers of the Negro People's Committee to Aid Spanish Democracy letter to lift the Spanish embargo. The special committee in its report of March 29, 1944 (p. 180), cited the Negro People's Committee to Aid Spanish Democracy as a Communist-front organization.

"Robert C. Weaver, Washington, D.C., contributed financially to Social Work Today as shown by the January 1941 issue of that publication (pp. 16-18). Social Work Today was cited as a Communist magazine by the special committee in its report of March 29, 1944 (p. 129).

"R. C. Weaver, 1206 Kenyon Street, Washington, D.C., was listed as a member of the Washington Book Shop on a 1941 membership list of the organization subpoenaed by this committee. The Washington Book Shop Association was cited as subversive and Communist by the Attorney General in letters released December 4, 1947, and September 21, 1948. The Attorney General cited the organization previously as showing 'evidence of Communist penetration or control' according to the Congressional Record, volume 88, part 6, page 7447. The Special Committee report of March 29, 1944 (p. 150), cited the organization as a Communist-front organization.

"Robert C. Weaver was the author of The Negro Ghetto which was reviewed by Herbert Aptheker in the August 1948 issue of Masses and Mainstream (p. 85). The Congressional committee, in its report on the Congress of American Women, April 26, 1950 (p. 76), cited Masses and Mainstream as successor to New Masses, a Communist magazine."

"FEBRUARY 18, 1953.

"Subject: Lewis Gannett, national board of directors, NAACP, 1934.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"On December 18, 1934, the Daily Worker (p. 5) reported the following: 'reception to mark the 10 anniversary of International Publishers took place * * * December 14, in * * * the new school for social research * * * Scores of prominent writers, artists, and editors were present to pay tribute to International Publishers' decade of achievement * * * Among those present were * * * Lewis Gannett, book-review columnist of the New York Herald Tribune * * *'

"The Attorney General of the United States cited International Publishers as 'The (Communist) Party's publishing house,' headed by Alexander Trachtenberg (Congressional Record, vol. 83, pt. 6, p. 7445); and as the 'publishing agency of the Communist Party' (brief for the United States in the case of William Schneiderman, p. 145). The special Committee on Un-American Activities cited International Publishers as an 'official publishing house of the Communist Party in the United States' (Reports of January 8, 1940, and June 25, 1942); the Committee on Un-American Activities cited the organization as the 'Official American Communist Party publishing house' (Report No. 1920 dated May 11, 1948).

"Lewis Gannett, Harvard, was a member of the sponsoring committee of dinner sponsored by the American Student Union for 'alumni of the student movement and present members' as shown in Student Advocate for February 1937 (p. 2). The American Student Union was cited as a Communist front which was 'the result of a united front gathering of young Socialists and Communists' in 1935. The Young Communist League took credit for creation of the organization (report of the special Committee on Un-American Activities dated Jan. 3, 1939; also cited in reports of Jan. 3, 1940; June 25, 1942; and Mar. 29, 1949).

"A letterhead of the American League for Peace and Democracy dated April 6, 1939, contains the name of Lewis Gannett in a list of members of the Writers' and Artists' Committee of that organization; the same information is shown in public hearings before this committee July 21, 1953 (p. 3639). The American League was cited by the Attorney General as 'designed to conceal Communist control, in accordance with the new tactics of the Communist International' (Congressional Record, vol. 83, pt. 6, p. 7443); and subsequently, as subversive and Communist (press releases of June 1 and September 21, 1948; also included

on consolidated list released April 1, 1954). The special committee cited the American League for Peace and Democracy as 'a bold advocate of treason' (reports of Jan. 3, 1939; Jan. 3, 1940; Jan. 3, 1941; June 25, 1942; and Jan. 2, 1943).

"The special committee cited the American Committee for Democracy and Intellectual Freedom as a Communist front which defended Communist teachers (report of June 25, 1942; also cited in report of March 29, 1944); a letterhead of the American Committee for Democracy and Intellectual Freedom, dated May 28, 1940, contains the name of Lewis Gannett in a list of members of the organization's national executive committee.

"A letterhead of the American Russian Institute for Cultural Relations With the Soviet Union, Inc., contains the name of Lewis Gannett in a list of members of its board of directors; the letterhead was dated July 14, 1938. The Attorney General cited the American Russian Institute as Communist (press release of April 27, 1949; also included on consolidated list dated April 1, 1954).

"Lewis S. Gannett was a member of the board of directors of the American Fund for Public Service, as shown on a photostat of their letterhead dated September 8, 1930. The 'American Fund for Public Service was established by Charles Garland, son of the wealthy James A. Garland. Young Garland, conditioned against wealth through radical acquaintances at Harvard, declined to accept his inheritance for his own personal use. Instead, he established, in 1922, the American Fund for Public Service with the sum of \$900,000 which consisted largely of conservative securities. During the lush twenties, the fund grew to some \$2 million.

"A self-perpetuating board of directors was set up for the purpose of handing out this easy money. Sidney Hillman was among them. Associated with Hillman as directors were Roger N. Baldwin, William Z. Foster, Lewis Gannett, * * * (From report 1311 of the special committee dated March 29, 1944.)

"An undated booklet of Friends of the Soviet Union contains the name of Lewis S. Gannett in a list of members of the Reception Committee for the Soviet Flyers, under auspices of that organization; he contributed a review of Maxim Gorki's 'A Book of Short Stories to Soviet Russia Today' (September 1939, p. 28). The Attorney General cited Friends of the Soviet Union as Communist (press releases of December 4, 1947, June 1 and September 21, 1948; also included on consolidated list released April 1, 1954); the special committee cited the organization as 'one of the most open Communist fronts in the United States' (report of January 3, 1939; also cited in reports of January 3, 1940; June 25, 1942; and March 29, 1944). Soviet Russia Today was published by Friends of the Soviet Union.

"Soviet Russia Today for November 1937 (p. 79) published a list of individuals who signed the Golden Book of American Friendship With the Soviet Union under this statement: 'I hereby inscribe my name in greeting to the people of the Soviet Union on the 20th anniversary of the establishment of the Soviet Republic.' The Golden Book of American Friendship With the Soviet Union was cited as a 'Communist enterprise' signed by hundreds of well-known Communists and fellow travelers (Report 1311 of the special committee dated March 29, 1944).

"The Daily Worker of January 18, 1939 (p. 7) reported that Lewis Gannett was a committee sponsor of the League of American Writers, cited as a Communist-front organization by the special committee (reports of January 3, 1940; June 25, 1942; and March 29, 1944). The Attorney General cited it as being under 'Communist control' and as subversive and Communist (Congressional Record, vol. 83, pt. 6, p. 7445; and press releases of June 1, and September 21, 1948; also included on consolidated list of April 1, 1954).

"New Masses for March 16, 1937 (p. 26) named Lewis Gannett as one of the sponsors of a sendoff dinner for the ambulance corps under the auspices of the American Artists and Writers Committee, Medical Bureau, American Friends of Spanish Democracy; an undated letterhead of the Writers' and Artists' Committee for Medical Aid to Spain also contains his name in a list of sponsors; the letterhead also carries the notation 'Affiliated with the Medical Bureau to Aid Spanish Democracy'; he signed a petition of American Friends of Spanish Democracy to lift the arms embargo, as shown in the Daily Worker of April 8, 1938 (p. 4).

"During 1937 and 1938, the Communist Party campaigned for support of the Spanish Loyalist cause, 'recruiting men and organizing multifarious so-called relief organizations * * * such as * * * American Friends of Spanish Democracy' (report 1311 of the special committee dated March 29, 1944).

"Another such organization which was cited by the special committee (see last paragraph above) was the Medical Bureau and North American Committee To Aid Spanish Democracy; their letterhead of July 6, 1938, contained the name of Lewis Gannett in a list of members of the Writers' and Artists' committee.

"The Liberator for September 1921 (p. 11) contained Lewis Gannett's interview with 'Bill Haywood in Moscow'; he also contributed an article to the July 1922 issue of the same publication (p. 30). The special committee cited the Liberator as a 'Communist magazine' (report of June 25, 1942).

"Lewis Gannett contributed articles to New Masses for February 16, 1937 (p. 21) and August 10, 1943 (p. 20); he signed New Masses' Letter to the President of the United States, as shown in New Masses of April 2, 1940 (p. 21), which source identified him as literary editor, New York Herald Tribune. New Masses has been cited by the Attorney General as a 'Communist periodical' (Congressional Record, vol. 88, pt. 6, p. 7448); the special committee cited it as the 'nationally circulated weekly journal of the Communist Party * * * whose ownership was vested in the American Fund for Public Service' (report of March 20, 1944; also cited in reports of January 3, 1939 and June 25, 1942).

"A letterhead of the All-American Anti-Imperialist League, dated April 11, 1928, contains the name of Lewis S. Gannett in a list of members of that organization's national committee. The Attorney General cited the All-American Anti-Imperialist League as a 'Communist-front organization' (in re Harry Bridges, May 28, 1942, p. 10); the special committee cited the group as a Communist front (report of March 20, 1944)."

"FEBRUARY 13, 1936.

"Subject: Dr. Buell G. Gallagher, national board of directors, NAACP, 1934.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"According to the Communist publication, the Daily Worker of April 18, 1936 (p. 3), Buell G. Gallagher, identified as President of Talladega College, endorsed a peace strike of 500,000 students who planned a demonstration for April 22, 1936. The strike was sponsored by the American Student Union which was cited as a Communist-front organization by the special Committee on Un-American Activities in reports dated January 3, 1940, June 25, 1942, and March 29, 1944.

"The Daily People's World, the Communist journal on the west coast, listed Dr. Buell Gallagher as a member of the Draft Cross Committee, in connection with a move to draft Mayor Laurence I. Cross, of Berkeley, Calif., as candidate for Congress from the Seventh District of California. (See Daily People's World of January 28, 1948, p. 3.) In the February 17, 1948, issue of the Daily People's World (p. 3), we find that 'the committee originally formed to draft Mayor Laurence Cross for Congress has resolved to stay together in support of the candidacy of Dr. Buell G. Gallagher in the Seventh District.' According to Judge Louis J. Hardie, committee chairman, 'In Dr. Gallagher, we feel that we have found a congressional candidate who possesses those qualities of intelligence, integrity, and idealism which we admire in Dr. Cross. His deep acquaintance with social and economic problems and his broad experience in community activities insure the voters of the Seventh District a candidate who will honestly and ably serve them in the 81st Congress' (ibid.).

"In the March 10, 1948, issue of the Daily People's World, we note that the 'Alameda County CIO Council voted endorsement last night for Dr. Buell Gallagher, pro-Wallace candidate for Congress in the Seventh District. Dr. Gallagher, endorsed previously by the AFL Central Labor Council and Building Trade Council, will run in the Democratic primary in June against Dyke Brown, the Truman candidate. Congressman from the Seventh District now is Republic John J. Allen, who voted for the Taft-Hartley Law' (p. 8).

"Under date of February 10, 1951, Dr. Gallagher addressed a letter to the chairman of this committee detailing an analysis of the information reflected in the public files of the committee, and stating, 'at no time have I ever been a member of, or sympathized with, the Communist Party; nor a member of, or sympathizer with, any organization which I knew or believed to be a front for communism.'

The chairman, in a letter to Dr. Gallagher dated March 3, 1951, advised him that his analysis would be made a part of the committee records and quoted in any future releases."

"FEBRUARY 13, 1956.

"Subject: Judge Hubert T. Delany (also spelled Delaney), national board of directors, NAAOP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"Hubert T. Delaney was a member of the Council on African Affairs, as shown in the following sources: Pamphlets entitled 'Africa in the War,' 'Seeing Is Believing' (1947), 'For a New Africa' (p. 83), '8 Million Demand Freedom' (inside back cover); leaflets headed 'The Job to Be Done' and 'What of Africa's Place in Tomorrow's World' (June 28, 1944). New Africa for December 1943 (p. 4) and a letterhead of the council dated May 17, 1945, contained the same information. Mr. Walter S. Steel testified in public hearings before the Committee on Un-American Activities July 21, 1947 (p. 135), that Judge Delany was a member of the Council on African Affairs. According to the Daily Worker of March 20, 1948 (p. 7), Judge Hubert T. Delaney was a member of the executive board of the council. The Daily Worker of April 28, 1947 (p. 12), named him as having signed a statement issued by the council.

"The Attorney General of the United States cited the Council on African Affairs as subversive and Communist (press releases of December 4, 1947, and September 21, 1948; also included on consolidated list released April 1, 1954).

"A 1939 membership list of the National Lawyers Guild, which was made available to the Special Committee on Un-American Activities, contains the name of one Hubert T. Delany, 30 Broad Street, New York City. The name of Hubert T. Delany appeared on a letterhead of the Guild dated May 28, 1940, as director ex officio. The New York Guild Lawyer for September 1950 listed him as vice president of the New York chapter of the guild. A list of officers of the National Lawyers Guild (as of December 1949) contains the name of the Honorable Hubert T. Delaney in a list of members or the organization's executive board; he is so named in a list dated May 1950. Both of these lists were printed in a report on the National Lawyers Guild, prepared and published by the Committee on Un-American Activities September 17, 1950.

"Convention News of May 1941 (pp. 2 and 4), issued by the fifth annual convention of the National Lawyers Guild which was held May 29-June 1, 1941, in Detroit, Mich., named Hubert T. Delany as a member of the convention resolutions committee; he was also named in the same source as a member of the national executive board, National Lawyers Guild. Judge Delaney presided at an annual convention of the guild in Chicago, Ill., in 1951 (Daily People's World, October 18, 1951, p. 2); he also spoke before the guild in 1951, as reported in the Daily Worker of April 10, 1951, page 5. In the latter three sources, he was identified with the domestic relations court of New York City.

"The Daily Worker of October 7, 1952 (p. 3), reported that Judge Delany was to lead a workshop at the national conference on civil rights legislation and discrimination to be held in New York City, October 10-12, under the auspices of the National Lawyers Guild; a letterhead of the New York City chapter of the guild dated October 17, 1952, listed Hubert T. Delany as vice president. The Daily Worker of February 20, 1953 (p. 6), announced that he would speak at a panel session on civil rights and liberties, February 22, at the annual convention of the guild, February 20-23, in New York City. According to the Daily Worker of May 27, 1953 (p. 8), Hubert T. Delany was reelected vice president of the New York City chapter of the National Lawyers Guild at the annual membership meeting May 28. He was elected one of the vice presidents of the National Lawyers Guild, New York City chapter, for the years 1954-55, as reported in the Daily Worker of May 28, 1954 (p. 8).

"The National Lawyers Guild was cited as a Communist-front organization by the Special Committee on Un-American Activities in report No. 1311 dated March 29, 1944. In a report on the guild, prepared and released September 17, 1950, by the Committee on Un-American Activities, it was shown that the National Lawyers Guild "is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions" and "since its inception has never

failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents."

"Hubert T. Delany was a member of the Lawyers' Committee of the American League for Peace and Democracy, as shown on their letterhead dated April 6, 1939. The American League for Peace and Democracy was cited as subversive and Communist by the Attorney General (press releases of June 1 and September 21, 1948; consolidated list of April 1, 1954); he had previously cited the organization as "established in the United States * * * in an effort to create public sentiment on behalf of a foreign policy adapted to the interests of the Soviet Union" (Congressional Record, vol. 88, pt. 6, p. 7413). The Special Committee on Un-American Activities cited the American League as "the largest of the Communist-front movements in the United States" (report of January 3, 1940).

"The catalog of the George Washington Carver School (winter term, 1947) contains the name of Judge Hubert T. Delany as a member of the board of directors of that school, cited by the Attorney General as "an adjunct in New York City of the Communist Party" (press release of December 4, 1947; included on consolidated list of April 1, 1954).

"Hubert T. Delany was named as a representative individual who advocated lifting the arms embargo against Spain in a booklet entitled 'These Americans Say,' which was prepared and published by the coordinating committee to lift the embargo, cited as one of the number of groups set up during the Spanish civil war by the Communist Party in the United States and through which the party carried on a great deal of agitation. (From a report of the Special Committee on Un-American Activities dated March 29, 1944.)

"A letterhead of the Lawyers Committee on American Relations with Spain dated March 5, 1938, and a prospectus and review of the organization both name him as a member of that group.

"In a report dated March 20, 1944, the Special Committee on Un-American Activities had the following to say concerning the Lawyers' Committee on American Relations with Spain: 'When it was the policy of the Communist Party to organize much of its main propaganda around the civil war in Spain, the lawyers' committee * * * supported this movement.'

"A letterhead of the medical bureau and North American Committee To Aid Spanish Democracy dated July 6, 1938, contains the name of Judge Delany in a list of members of that group.

"During 1937 and 1938, the Communist Party wholeheartedly campaigned for support of the Spanish Loyalist cause, recruiting men and setting up so-called relief organizations such as the medical bureau and North American Committee To Aid Spanish Democracy. (From report No. 1311 of the Special Committee on Un-American Activities dated March 29, 1944.)

"Hubert T. Delaney was one of the sponsors of a testimonial dinner in honor of Ferdinand O. Smith, Communist Party member and national secretary of the National Maritime Union; identified as tax commissioner, New York City, Judge Delany was listed by Labor Defender (issue of October 1935) as one of the individuals who signed a petition for the freedom of Angelo Herndon, a Communist."

"FEBRUARY 13, 1956.

"Subject: Norman Cousins, national board of directors, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"In an article which appeared in the Daily Worker of January 13, 1948, it was reported that: 'Thirty-five well known authors, editors, clergymen, and other public figures today called on the new Federal Employees Loyalty Review Board to prevent injustices to individuals in the Government loyalty check.' Norman Cousins was one of those who signed the letter, addressed to Seth W. Richardson, board chairman. This article also appeared in the New York Times on the preceding day, January 12, 1948 (p. 10).

"In a report of the Committee on Un-American Activities entitled 'Review of the Scientific and Cultural Conference for World Peace,' dated April 19, 1949, we find the following statement concerning a speech of Norman Cousins before that conference:

"In answer to this totalitarian philosophy of dragooning culture, Norman Cousins, editor of the Saturday Review of Literature, declared amid a great deal of hissing and booing, that "Democracy must mean intellectual freedom, that it must protect the individual against the right of the state to draw political and cultural blueprints for its painters and writers and composers or to castigate them, or to enter into those matters of mind in which the individual is sovereign." (See p. 13 of the Review of the Scientific and Cultural Conference.)"

"FEBRUARY 13, 1956.

"Subject: Dr. Algernon D. Black, national board of directors, NAACP, 1954.

"The public records, files and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"Dr. Algernon D. Black was one of the sponsors of the Cultural and Scientific Conference for World Peace, arranged by the National Council of the Arts, Sciences, and Professions, March 25-27, 1949 (conference program, p. 12, and conference call). The Daily Worker of February 21, 1949 (p. 2), announced that he was a member of the program committee of that conference. Speaking of Peace, edited report of the conference, March 25, 26, 27, 1949, listed Algernon Black as a speaker on 'A Warning Against Sectarian Prejudice,' and gave biographical data concerning him (pp. 121, 139).

"In 1948 and 1949, Dr. Black signed statements of the National Council of the Arts, Sciences, and Professions (Daily Worker, Dec. 29, 1948, p. 2; letterhead received in January 1949; New York Star of January 4, 1949, p. 9, an advertisement). He spoke before the group in February 1949 (Daily Worker, Feb. 28, 1949, p. 2).

"The Committee on Un-American Activities, in its Review of the Scientific and Cultural Conference for World Peace arranged by the National Council of the Arts, Sciences, and Professions and held in New York City on March 25, 26, and 27, 1949, April 26, 1950, cited the National Council of the Arts, Sciences, and Professions as a Communist-front organization. In this same report the Committee on Un-American Activities cited the scientific and cultural conference as actually a supermobilization of the inveterate wheelhorses and supporters of the Communist Party and its auxiliary organizations.

"The call to a national conference on American policy in China and the Far East, held in January 1948, included the name of Dr. Algernon Black in the list of sponsors (Call, January 23-25, 1948, New York City); the conference was called by the Committee for a Democratic Far Eastern Policy. In the December 1949-January 1950 issue of Far East Spotlight, which is the official organ of the Committee for a Democratic Far Eastern Policy, Dr. Black answered a questionnaire issued by that committee, favoring recognition of the Chinese Communist government.

"The Attorney General of the United States cited the Committee for a Democratic Far Eastern Policy as a Communist organization in a letter furnished the Loyalty Review Board and released to the press by the United States Civil Service Commission April 27, 1949; redesignated April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list of organizations previously designated.

"The Daily Worker of June 21, 1948, reported that Algernon D. Black had signed a statement of the National Council of American-Soviet Friendship, calling for a conference with the Soviet Union; he signed an appeal of the same organization to the United States Government to end the cold war and arrange a conference with the Soviet Union (leaflet entitled 'End the Cold War—Get Together for Peace' which was dated December 1948); he signed a statement in praise of Henry Wallace's open letter to Stalin (May 1948), as shown in the pamphlet, How To End the Cold War and Build the Peace (p. 9), prepared and released by the National Council of American-Soviet Friendship.

"The Attorney General cited the National Council of American-Soviet Friendship as subversive and Communist in letters released December 4, 1947, and September 21, 1948, redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The special Committee on Un-American Activities, in its report of March 29, 1944 (p. 156), cited the National Council of American-Soviet Friendship as 'in recent months, the Communist Party's principal front for all things Russian.'

"Dr. Black contributed an article to the pamphlet, *We Hold These Truths* (p. 22), which was issued by the League of American Writers. He was named as a member of the executive committee of Film Audiences for Democracy in the June 1939 issue of *Film Survey*, official organ of Film Audiences, cited as a Communist-front organization by the special Committee on Un-American Activities (report No. 1311 of March 29, 1944, p. 150).

"The Attorney General cited the League of American Writers as subversive and Communist in letters furnished the Loyalty Review Board and released to the press by the United States Civil Service Commission June 1 and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The organization was cited previously by the Attorney General as 'founded under Communist auspices in 1935 * * * in 1939 * * * began openly to follow the Communist Party line as dictated by the foreign policy of the Soviet Union.' (Congressional Record, vol. 88, pt. 6, p. 7445). The Special Committee on Un-American Activities, in its reports of January 3, 1940 (p. 9), June 25, 1942 (p. 19), and March 29, 1944 (p. 48), cited the League of American Writers as a Communist front organization.

"A letterhead of the nonpartisan committee for the reelection of Congressman Vito Marcantonio, dated October 3, 1936, listed the name of Algernon D. Black as a member of that committee. The Special Committee on Un-American Activities, in its report dated March 29, 1944 (p. 122), cited the nonpartisan committee for the reelection of Vito Marcantonio as a Communist-front organization.

"Algernon Black was a member of the advisory board of the American Student Union, as shown in a pamphlet entitled 'Presenting the American Student Union.' The special Committee on Un-American Activities, in its report dated January 3, 1939 (p. 80), cited the American Student Union as a Communist-front organization.

"A letterhead of the Veterans Against Discrimination of Civil Rights Congress of New York, dated May 11, 1946, listed the name of Algernon Black as one of the public sponsors of that organization. The Attorney General cited the Veterans Against Discrimination of Civil Rights Congress of New York as subversive in a letter released December 4, 1947; included on the April 1, 1954, consolidated list.

"Mr. Black signed an open letter of the National Federation for Constitutional Liberties, as shown in the booklet *600 Prominent Americans* (p. 16). The Attorney General cited the National Federation as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Attorney General cited the organization previously as 'part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program.' The Special Committee on Un-American Activities, in its report dated March 29, 1944 (p. 50), cited the National Federation for Constitutional Liberties as 'one of the viciously subversive organizations of the Communist Party.' The Committee on Un-American Activities, in its report of September 2, 1947 (p. 3), cited the National Federation as among a 'maze of organizations' which were 'spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law.'

"The printed program of the Greater New York Emergency Conference on Inalienable Rights, February 12, 1940, reveals the name of Algernon D. Black as vice chairman of the group. A letterhead of the American Russian Institute, received July 26, 1949, contains the name of Dr. Black as a member of the interchurch committee of that institute. The Special Committee on Un-American Activities, in its report dated March 29, 1944 (pp. 96 and 129), cited the Greater New York Emergency Conference on Inalienable Rights as a Communist front organization. The Attorney General cited the American Russian Institute as a Communist organization in a letter released April 27, 1949; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list.

"Dr. Black was a member of the American Friends of Spanish Democracy (letterheads dated March 13, 1931, and February 21, 1938); and described as a representative individual in a booklet entitled 'These Americans Say' which was published by the Coordinating Committee to Lift the (Spanish) Embargo. The Special Committee on Un-American Activities, in its report dated March 29, 1944 (p. 82), cited the American Friends of Spanish Democracy as a Communist front organization. The Coordinating Committee to Lift the (Spanish) Embargo was cited by the Special Committee on Un-American Activities in its report dated

March 29, 1944 (pp. 137 and 138), as one of a number of front organizations set up during the Spanish Civil War by the Communist Party in the United States and through which the party carried on a great deal of agitation.

"In a pamphlet entitled 'News You Don't Get' (dated November 15, 1938), Algernon Black was named as one of those who signed the call to a conference on pan-American democracy; a letterhead of the organization dated November 18, 1938, named him as one of the sponsors of the conference. The Attorney General cited the Conference on pan-American Democracy as subversive and Communist in letters released June 1 and September 21, 1948; redesignated April 27, 1953, pursuant to Executive Order No. 10450. The Special Committee on Un-American Activities, in its report dated March 29, 1944 (pp. 161 and 164), cited the Conference on Pan-American Democracy as a Communist front organization.

"Algernon Black signed a declaration of the Reichstag Fire Trial Anniversary Committee honoring Dimitrov, as shown in the New York Times of December 22, 1943 (p. 40). The special Committee on Un-American Activities, in its report of March 29, 1944 (pp. 112 and 156), cited the Reichstag Fire Trial Anniversary Committee as a Communist front organization.

"Dr. Black signed an open letter in defense of Harry Bridges. (See Daily Worker of July 19, 1942, p. 4.) Letterheads of the Citizens Victory Committee for Harry Bridges dated, June 8, 1943, and January 10, 1944, listed Algernon Black as a committee member or sponsor of that group. The open letter in defense of Harry Bridges was cited as a Communist front organization by the special Committee on Un-American Activities in its report of March 29, 1944 (pp. 87, 112, 129, 166). The citizens' committee for Harry Bridges was cited as Communist by the Attorney General in a letter released April 27, 1949; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The special Committee on Un-American Activities, in its report of March 29, 1944 (pp. 90 and 94), cited the citizens' committee for Harry Bridges as a Communist front organization.

"The Daily Worker of March 29, 1951 (p. 9), reported that Dr. Algernon D. Black signed a letter of the American Committee for Protection of Foreign Born attacking the McCarran Act. Algernon D. Black was shown as a sponsor of the American Committee for Protection of Foreign Born in the Daily Worker, April 4, 1951 (p. 8), a leaflet: "Call—Mass Meeting and Conference," October 27, 1951, Dearborn, Mich., and a photostatic copy of an undated letterhead of the 20th anniversary national conference * * *, U. E. Hall, Chicago, Ill. (Dec. 8-9, 1951). The Daily Worker of August 10, 1950 (p. 5), reported that Dr. Algernon Black signed a statement of the American Committee against denaturalization.

"The Attorney General cited the American Committee for Protection of Foreign Born as subversive and Communist in letters released June 1 and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The special Committee on Un-American Activities, in its report of March 29, 1944 (p. 155), cited the American Committee for Protection of Foreign Born as 'one of the oldest auxiliaries of the Communist Party in the United States.'

"On June 13, 1949, the Daily Worker reported that Dr. Black was one of the sponsors of an organization formed to oppose the Mundt-Nixon anti-Communist bill; a press release of the National Committee to Defeat the Mundt bill, dated June 15, 1949, revealed the same information. The Committee on Un-American Activities, in its report on the National Committee to Defeat the Mundt bill dated January 2, 1951, cited that organization as 'a registered lobbying organization which has carried out the objectives of the Communist Party in its fight against antislavery legislation.'

"A letterhead of the Voice of Freedom Committee dated June 16, 1947, listed Algernon D. Black as a sponsor of that organization. An invitation to a dinner held under auspices of the group, January 21, 1948, listed him as a member of the dinner committee. He signed a petition of the organization as shown by a leaflet published by the Voice of Freedom Committee. The Attorney General included the Voice of Freedom Committee on his April 1, 1954, consolidated list of organizations previously designated.

"Algernon D. Black, New York Ethical Culture Society, signed an open letter of the Conference on Peaceful Alternatives to the Atlantic Pact to Senators and Congressmen urging defeat of President Truman's arms program, as shown by a letterhead dated August 21, 1940.

"The Committee on Un-American Activities, in its report on the Communist peace offensive, April 1, 1951 (p. 58), cited the Conference for Peaceful Alterna-

tives to the Atlantic Pact as a meeting called by the Daily Worker in July 1949, to be held in Washington, D. C., and as having been instigated by Communists in the United States (who) did their part in the Moscow campaign.

"The Daily Worker of December 10, 1952 (p. 4), listed Dr. Algernon D. Black as a signer of an appeal to President Truman requesting amnesty for leaders of the Communist Party convicted under the Smith Act."

"FEBRUARY 13, 1956.

"Subject: Dr. Ralph Bunche, national board of directors, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"Dr. Ralph Bunche was a member of the executive board of the Washington committee, Southern Conference for Human Welfare, as shown on their letterhead of June 4, 1947. The Special Committee on Un-American Activities cited the Southern Conference for Human Welfare as a Communist-front organization in its report of March 29, 1944. In 1947 the Committee on Un-American Activities released a report on the conference, in which it was cited as a Communist-front organization which sought to 'attract southern liberals on the basis of its seeming interest in the problems of the South,' although its 'professed interest in southern welfare' was 'simply an expedient for larger aims serving the Soviet Union and its subservient Communist Party in the United States' (Report No. 592 of June 12, 1947).

"Ralph Bunche was a sponsor of the Conference on Civil Rights of the Washington Committee for Democratic Action, April 20-21, 1940, as shown by the conference call, page 4. A letterhead of the Washington Committee for Democratic Action dated April 26, 1940, named Dr. Bunche as one of the sponsors of that group.

"The Washington Committee for Democratic Action was cited as subversive and Communist by the Attorney General of the United States in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948. The organization was redesignated by the Attorney General, April 27, 1953, pursuant to Executive Order No. 10450, and included in the April 1, 1954, consolidated list of organizations previously designated. The Attorney General had previously cited the group as an affiliate or local chapter of the National Federation for Constitutional Liberties (Congressional Record, vol. 83, pt. 6, p. 7448). The Special Committee on Un-American Activities cited the organization as successor in Washington to the American League for Peace and Democracy and an affiliate of the national federation (reports of June 25, 1942, and Mar. 29, 1944).

"Official proceedings of the National Negro Congress for 1936, pages 5 and 40, named Dr. Ralph Bunche, Washington, D.O., as a member of the presiding committee and a member of the national executive council of that organization.

"The Special Committee on Un-American Activities cited the National Negro Congress as a Communist-front movement in the United States among Negroes, and reported that 'the officers of the National Negro Congress are outspoken Communist sympathizers, and a majority of those on the executive board are outright Communists' (report of January 3, 1959). The Attorney General cited the National Negro Congress as a Communist-front organization (Congressional Record, vol. 83, pt. 6, p. 7447; press releases of December 4, 1947, and September 21, 1948; consolidated list of cited organizations, dated April 1, 1954).

"The Washington Post and Times Herald, May 29, 1954, p. 6, reported that 'A Federal loyalty board announced today that it has unanimously cleared Dr. Ralph J. Bunche of any and all charges.' The article quoted the official announcement as follows:

"The full board had its second meeting with Dr. Bunche yesterday following which it unanimously reached the conclusion that there is no doubt as to the loyalty of Dr. Bunche to the Government of the United States.

"This conclusion has been forwarded to the Secretary of State for transmittal to the Secretary General of the U.N. At the same time it has been informally transmitted to Dr. Bunche."

"Reference to the loyalty board's clearance of Dr. Bunche is found also in the Washington Evening Star, May 28, 1954, p. A-1."

"FEBRUARY 13, 1956.

"Subject: Dr. H. Claude Hudson, national board of directors, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"The Daily People's World of May 2, 1947 (p. 8), listed Dr. H. Claude Hudson as a sponsor of the Los Angeles chapter of the Civil Rights Congress.

"The Attorney General of the United States cited the Civil Rights Congress as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948. The organization was redesignated by the Attorney General April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list of organizations previously designated. The Committee on Un-American Activities, in its report of September 2, 1947 (pp. 2 and 19), cited the Civil Rights Congress as an organization formed in April 1946 as a merger of two other Communist-front organizations (International Labor Defense and the National Federation for Constitutional Liberties); 'dedicated not to the broader issues of civil liberties, but specifically to the defense of individual Communists and the Communist Party' and 'controlled by individuals who are either members of the Communist Party or openly loyal to it.'"

"FEBRUARY 13, 1956.

"Subject: Carl R. Johnson, national board of directors, national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"An undated leaflet, The Only Sound Policy for a Democracy, and the Daily Worker of March 19, 1945 (p. 4), listed Carl R. Johnson, lawyer, Kansas City, Mo., as a signer of a statement sponsored by the National Federation for Constitutional Liberties supporting the War Department's order on granting commissions to members of the Armed Forces who have been members of or sympathetic to the views of the Communist Party.

"The Attorney General of the United States cited the National Federation for Constitutional Liberties as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948. The organization was redesignated by the Attorney General April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list of organizations previously designated. The organization was cited previously by the Attorney General as 'part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program.' (Congressional Record, vol. 88, pt. 6, p. 7448.) The special Committee on Un-American Activities, in its report of March 29, 1944 (p. 50), cited the National Federation for Constitutional Liberties as 'one of the viciously subversive organizations of the Communist Party.' The Committee on Un-American Activities, in its report of September 2, 1947 (p. 3), cited the National Federation for Constitutional Liberties among a maze of organizations which were spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law."

"FEBRUARY 13, 1956.

"Subject: Alfred Baker Lewis, national board of directors, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or finding of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"On July 11, 1942, the National Federation for Constitutional Liberties addressed an open letter to the President of the United States urging him to

reconsider Attorney General Francis Biddle's order to deport Harry Bridges; the letter also stated that: It is equally essential that the Attorney General's ill-advised, arbitrary, and unwarranted findings relative to the Communist Party be rescinded.' Alfred Baker Lewis, executive board, National Association for the Advancement of Colored People and executive board member, Union for Democratic Action, New York, N. Y., signed the open letter, as shown in the pamphlet entitled '600 Prominent Americans Ask President To Rescind Biddle Decision,' published September 11, 1942, by the National Federation for Constitutional Liberties and incorporating the open letter in full. The open letter, together with a list of individuals who signed it, appeared in the Daily Worker on July 19, 1942 (p. 4).

"The Attorney General of the United States cited the National Federation for Constitutional Liberties as 'Part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program'; and as subversive and Communist. (Congressional Record, vol. 88, pt. 6, p. 7446; and press releases of December 4, 1947, and September 21, 1948, respectively; also included in consolidated list released April 1, 1954.) The special Committee on Un-American Activities cited the federation as one of the viciously subversive organizations of the Communist Party (report of March 29, 1944; also cited in reports of June 25, 1942, and January 2, 1943). It was also cited by the Committee on Un-American Activities as intended to protect Communist subversion from any penalties under the law (Report No. 1115 of September 2, 1947).

"An undated letterhead of the League for Mutual Aid, 104 Fifth Avenue, New York City, contained the name of Alfred Baker Lewis in a list of members of the organization's advisory committee. The league was cited as a Communist enterprise by the Special Committee on Un-American Activities in Report No. 1311 of March 20, 1944.

"Greetings and best wishes for success to the second national Negro congress' were contained in the printed annual program of that congress, sent by A. Phillip Randolph, chairman, and Alfred Baker Lewis, secretary, Negro Work Committee of the Socialist Party. (Printed annual program, second national Negro congress, Philadelphia, Pa., October 15, 16, and 17, 1937, p. 61.) The National Negro Congress was cited as an important sector of the democratic front, sponsored and supported by the Communist Party; and later, as subversive and Communist. (Congressional Record, vol. 88, pt. 6, p. 7447; and press releases of December 4, 1947, and September 21, 1948; also included on consolidated list of April 1, 1954.) The Special Committee on Un-American Activities cited the congress as the Communist-front movement in the United States among Negroes (report of January 3, 1939; also cited in reports of January 3, 1940; June 25, 1942; and March 29, 1944)."

"FEBRUARY 13, 1956.

"Subject: Dr. James J. McClendon, national board of directors, national health committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"The Daily Worker of March 13, 1945 (p. 2), and an undated leaflet, The Only Sound Policy for a Democracy, named Dr. J. McClendon as one of the signers of a statement sponsored by the National Federation for Constitutional Liberties, which supported the War Department's order on granting commissions to members of the Armed Forces who have been members of or sympathetic to the views of the Communist Party. Dr. McClendon was identified as President of the Detroit National Association for the Advancement of Colored People. D. J. J. McClendon was one of the sponsors of the National Federation for Constitutional Liberties, as shown by the program, Action Conference for Civil Rights, held in Washington, D.C., April 19-20, 1941; and on letterheads dated September 11, 1940, and November 6, 1940.

"The National Federation for Constitutional Liberties was cited as subversive and Communist by the United States Attorney General in press releases dated December 4, 1947, and September 21, 1948; also included in his consolidated list of April 1, 1954. The Attorney General described the organization as 'part of

what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program' (Congressional Record, vol. 88, pt. 6, p. 7446). The Special Committee on Un-American Activities stated that "There can be no reasonable doubt about the fact that the National Federation for Constitutional Liberties regardless of its high-sounding name—is one of the viciously subversive organizations of the Communist Party" (special committee report, March 20, 1944, p. 50); also cited in reports, June 25, 1942 (p. 20), and January 2, 1943 (pp. 8 and 12):

"Dr. James J. McClendon was named in the Daily Worker of March 16, 1942, (pp. 1 and 4), and on a letterhead dated April 2, 1942, as one of the sponsors of the National Free Browder Congress.

"The National Free Browder Congress was cited as a Communist front which arranged to meet March 28-29, 1942. Earl Browder was general secretary of the Communist Party, United States of America, who had been convicted and sentenced to Atlanta Federal Penitentiary for passport fraud. (Special Committee on Un-American Activities, report, March 20, 1944 (pp. 69, 87, and 132).)

"Dr. James McClendon was one of the sponsors of the sesquicentennial bill of rights celebration, held under the auspices of the Michigan Civil Rights Federation, Detroit, Mich., December 1-2, 1939, as shown by the call of conference. Dr. James J. McClendon was one of the sponsors of a statewide conference, held under the auspices of the Michigan federation in Detroit, Mich., September 12, 1943, as shown by call of the conference. He was identified as president of the Detroit chapter of the National Association for the Advancement of Colored People.

"The Michigan Civil Rights Federation was cited by the Attorney General of the United States as 'an affiliate of the Communist front, the National Federation for Constitutional Liberties; and as subversive and Communist organization which has been succeeded by and now operates as the Michigan chapter of the Civil Rights Congress.' (Congressional Record, vol. 88, pt. 6, p. 7446; and press releases of December 4, 1947, June 1 and September 21, 1948; also including in his consolidated list of organizations, dated April 1, 1954.) The Special Committee on Un-American Activities and the Committee on Un-American Activities cited the Michigan Civil Rights Federation as a Communist-front organization. (From Report No. 1311 of the Special Committee on Un-American Activities, dated March 29, 1944; and Report No. 1115 of the Committee on Un-American Activities, dated September 2, 1947, p. 3.)"

"FEBRUARY 13, 1956.

"Subject: A. Maceo Smith, national board of directors, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"A. Maceo Smith was a signer of a statement released by the Civil Rights Congress of Texas against a ban on the Communist Party as shown by the Worker, April 27, 1947 (p. 25).

"The Attorney General of the United States cited the Civil Rights Congress as subversive and Communist in letters to the Loyalty Review Board, released to the press by the United States Civil Service Commission December 4, 1947 and September 21, 1948; redesignated April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list. The Committee on Un-American Activities, in its report of September 2, 1947 (pp. 2 and 19), cited the Civil Rights Congress as an organization formed in April 1946 as a merger of two other Communist-front organizations (International Labor Defense and the National Federation for Constitutional Liberties); 'dedicated not to the broader issues of civil liberties, but specifically to the defense of individual Communists and the Communist Party' and 'controlled by individuals who are either members of the Communist Party or openly loyal to it.'"

"FEBRUARY 13, 1950.

'Subject: James Hinton, national board of directors, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"James M. Hinton, identified as president of the State conference of the National Association for the Advancement of Colored People for South Carolina, was one of the sponsors of a Congress on Civil Rights, as shown on the call to the congress which was held in Detroit, Mich., April 27-28, 1946. (See pp. 21 and 22 of Rept. No. 1115 of the Committee on Un-American Activities on the Civil Rights Congress, September 2, 1947.)

"The Civil Rights Congress was founded at a conference in Detroit April 27, and 28, 1946, effectuating the merger of the International Labor Defense and the National Federation for Constitutional Liberties. The Civil Rights Congress was 'dedicated not to the broader issues of civil liberties, but specifically to the defense of individual Communists and the Communist Party' and 'controlled by individuals who are either members of the Communist Party or openly loyal to it' (pp. 2 and 19 of Rept. No. 1115).

"The Attorney General of the United States cited the Civil Rights Congress as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list of organizations previously designated."

"FEBRUARY 13, 1950.

"Subject: Theodore M. Berry, national board of directors, national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"A 1939 membership list of the National Lawyers Guild which was made available to the Special Committee on Un-American Activities, March 1939, contains the name of Theodore M. Berry, 308 West Fifth Street, Cincinnati, Ohio, as a member.

"The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 149), cited the National Lawyers Guild as a Communist-front organization. The Committee on Un-American Activities, in its report on the National Lawyers Guild, September 17, 1950, cited the organization as a Communist front which 'is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents.'"

"FEBRUARY 13, 1950.

"Subject: Earl B. Dickerson, national board of directors, national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"According to the Daily Worker of February 28, 1949 (p. 9), Earl Dickerson, attorney, Illinois, was one of the signers of a statement defending the 12 Com-

munist leaders. He signed a statement in behalf of the attorneys in the Communist cases as shown by the July 31, 1950, issue of the Daily Worker (p. 9). This same information was shown in the February 1, 1950, issue of the Daily Worker (p. 3). As shown by the Daily People's World of May 12, 1950 (p. 12), Earl B. Dickerson was a signer of a statement to the United Nations in behalf of the Communist cases.

"Earl B. Dickerson protested approval of the Smith Act by the Supreme Court as 'having a disastrous impact upon * * * struggle of Negro people' (Daily Worker, October 1, 1951, p. 1). He filed a petition with the clerk of the United States Supreme Court supporting the pending application for a hearing on the constitutionality of the Smith Act as shown by the Daily Worker, October 4, 1951 (p. 15). Mr. Dickerson was identified in this source as a Negro attorney in Illinois. He spoke against the Smith Act according to the February 12, 1952, issue of the Daily People's World (p. 3), and was coauthor of a memorandum to the Supreme Court 'on the menace of the Smith Act to the Negro people' (Daily People's World, July 15, 1952, p. 1). Earl B. Dickerson, president, National Lawyers Guild, Chicago, was a signer of an appeal to President Truman requesting amnesty for leaders of the Communist Party convicted under the Smith Act (Daily Worker, December 10, 1952, p. 4). As shown by the Daily Worker, December 29, 1953 (p. 8) and the Worker, January 3, 1954 (p. 6), Earl B. Dickerson was one of 89 prominent Midwest citizens signing a plea for Christmas amnesty for Communist leaders convicted under the Smith Act, which was wired to President Eisenhower. He was one of the initiators of an appeal for reduced bail for Claude Lightfoot, Illinois Communist leader, indicted under a section of the Smith Act as shown by the September 12, 1954, issue of the Worker (p. 16).

"According to the December 25, 1952, issue of the Daily Worker (p. 8), Earl D. Dickerson was a signer of an open letter to President Truman asking clemency for the Rosenbergs. The Daily People's World of March 13, 1953 (p. 3), reported that Earl B. Dickerson contributed a statement to the pamphlet, The Negro People Speak Out on the Rosenbergs, distributed by volunteers for the East Bay Committee To Save the Rosenbergs, Oakland, Calif.

"Earl B. Dickerson was a signer of an appeal to the Greek Government protesting the court-martial of Greek maritime unionists as shown by the Daily Worker, August 19, 1952 (p. 1).

"Earl B. Dickerson was listed in the spring 1943 (p. 22) and fall session 1943 (p. 27) catalogs of the Abraham Lincoln School as a member of the board of directors. He was named in the same source as a guest lecturer at the school (p. 19).

"The Attorney General of the United States cited the Abraham Lincoln School as an adjunct of the Communist Party in a letter to the Loyalty Review Board, released December 4, 1947. The Attorney General redesignated the school April 27, 1953, pursuant to Executive Order No. 10450, and included it on the April 1, 1954, consolidated list of organizations previously designated. The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 82), cited the Abraham Lincoln School as successor of the Workers School as a Communist educational medium in Chicago.

"A pamphlet entitled 'For a New Africa' (containing the proceedings of the conference on Africa, New York, April 14, 1944), names Earl E. Dickerson as a member of the National Negro Congress.

"The National Negro Congress was cited as subversive and Communist by the Attorney General in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The organization was cited previously by the Attorney General as a Communist-front group (Congressional Record, vol. 83, pt. 6, p. 7446). The Special Committee on Un-American Activities, in its report of January 3, 1939 (p. 81), cited the National Negro Congress as 'the Communist-front movement in the United States among Negroes.'

"He was a member of the Council on African Affairs, as shown in a pamphlet entitled '8 Million Demand Freedom,' and the pamphlet 'For a New Africa' (p. 36). Earl B. Dickerson is listed as a member of the Council on African Affairs in a leaflet, issued by the organization, The Job To Be Done, a leaflet entitled 'What of Africa's Place in Tomorrow's World?' a pamphlet entitled 'Seeing Is Believing' (1947), and a letterhead of the group, dated May 17, 1945, and a pamphlet, 'Africa in the War.'

"The Attorney General cited the Council on African Affairs as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list.

"The name of Earl Dickerson, of 35 South Dearborn Street, Chicago, Ill., appears on a 1939 membership list of the National Lawyers' Guild on file with this committee. In 1949 he was president of the Chicago chapter of the guild and chairman at a meeting on anti-Communist legislation, as shown in the Daily Worker of March 15, 1949 (p. 6); in the same year he attacked the Marshall plan as shown in the Daily Worker of July 19, 1949 (p. 5), in which source he was identified as president of the Chicago chapter of the guild; he participated in a discussion entitled 'Status of Civil Liberties,' fifth annual convention, National Lawyers' Guild, Book-Cadillac Hotel, Detroit, Mich., May 29-June 1, 1941, as shown by the convention program printed in Convention News, May 1941 (p. 2), published by the guild. This same Convention News (pp. 3 and 4) listed him as a member of the convention nominations committee of the fifth national convention of the National Lawyers' Guild. He submitted a report of the guild, denouncing lynching and discrimination, as shown in the Daily Worker, November 30, 1942 (p. 1). As shown by the October 15, 1951, issue of the Daily Worker (p. 1), Earl B. Dickerson was president of the Chicago chapter of the National Lawyers' Guild; he spoke at the national convention of the organization in Chicago. The October 18, 1951, issue of the Daily People's World (p. 2), reported that Earl B. Dickerson was elected president of the National Lawyers' Guild. He was shown as president of the National Lawyers' Guild in the Daily Worker, January 25, 1952 (p. 1), and February 20, 1953 (p. 6), and the Daily People's World, January 25, 1952 (p. 8). The January 18, 1952, issue of the Daily People's World (p. 3) reported that Earl B. Dickerson was to speak on the 'Smith Act, the Constitution, and You,' at a gathering of the San Francisco chapter of the National Lawyers' Guild on February 1, 1952. The Daily Worker of February 24, 1953 (p. 6), reported that Earl Dickerson, president of the National Lawyers' Guild, addressed the annual convention of the group held February 20-23, at the Park-Sheraton Hotel, New York City, and stated that 'a new foreign policy is needed if the drive against liberties is to be halted.' The Daily People's World of July 6, 1953 (p. 3), announced that he was to be honored by the Los Angeles-Hollywood chapter of the National Lawyers' Guild at a luncheon. The Daily Worker of August 28, 1953 (p. 2), reported that Earl B. Dickerson, president of the National Lawyers' Guild, issued a statement opposing the American Bar Association's call for disbarment of Communist lawyers. As shown by the September 6, 1953, issue of the Worker (p. 6), Earl Dickerson protested the placing of the National Lawyers' Guild on the list of subversive organizations by the Attorney General.

"The Special Committee on Un-American Activities, in its report of March 20, 1944 (p. 149), cited the National Lawyers' Guild as a Communist-front organization. The Committee on Un-American Activities, in its report on the National Lawyers' Guild, September 17, 1950, cited the group as a Communist front which 'is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents.'

"One Earl Dickerson (with no middle initial shown) spoke at the morning session of the Congress on Civil Rights which was held in Detroit, Mich., April 27-28, 1946, as shown in the program, Congress on Civil Rights (p. 1); Earl B. Dickerson signed a statement of the Civil Rights Congress which was in defense of Gerhart Eisler, according to the Daily Worker of February 28, 1947 (p. 2); he was one of the sponsors of the National Emergency Conference for Civil Rights which was held in New York City on July 19, 1948, according to the Daily Worker of July 12, 1948 (p. 4); a photostat of a letterhead of the Civil Rights Congress, Illinois, dated December 18, 1948, listed Earl Dickerson as a sponsor. As shown by the Daily Worker of November 1, 1950 (p. 4), Earl B. Dickerson was a sponsor of the Civil Rights Congress. A handbill, Dodge Local 3 supports FEPC Rally, listed Earl B. Dickerson as one of those who would speak at a rally to be held under partial auspices of the Civil Rights Congress of Michigan on April 16, 1950.

"The Attorney General cited the Civil Rights Congress as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list.

The Committee on Un-American Activities, in its report of September 2, 1947 (pp. 2 and 19), cited the Civil Rights Congress as an organization formed in April 1946 as a merger of two other Communist-front organizations (International Labor Defense and the National Federation for Constitutional Liberties); 'dedicated not to the broader issues of civil liberties, but specifically to the defense of individual Communists and the Communist Party' and 'controlled by individuals who are either members of the Communist Party or openly loyal to it.'

"According to the printed program of the Cultural and Scientific Conference for World Peace (p. 14), Earl B. Dickerson was one of the sponsors of this conference which was held in New York City, March 27-27, 1949, under the auspices of the National Council of the Arts, Sciences, and Professions; he signed a statement of the council which was reprinted in the Congressional Record, volume 85, part 7, page 9435. Earl B. Dickerson was a signer of a Resolution Against Atomic Weapons as shown by a mimeographed list of signers attached to a letterhead of the National Council of the Arts, Science, and Professions dated July 28, 1950. Mr. Dickerson signed a statement to the American people, 'We uphold the right of all citizens to speak for peace,' released by the National Council of the Arts, Sciences, and Professions, as shown by the handbill, 'Halt the Defamers Who Call Peace Un-American.' He spoke at a conference on equal rights for Negroes in the arts held by the New York Council of the National Council of the Arts, New York City, November 10, 1951, according to the November 7, 1951 (p. 3), and November 14, 1951 (p. 7), issues of the Daily Worker. The Daily Worker of June 2, 1952 (p. 3), listed Earl B. Dickerson as one of the endorsers of the national council resolution calling for a hearing of Tunisia's demands in the United Nations. He spoke at a conference for equal rights for Negroes in the Arts, Sciences, and Professions held by the Southern California Council of the Arts, Sciences, and Professions, on June 14, 1952, in Los Angeles (Daily Worker, June 20, 1952, p. 7).

"The Committee on Un-American Activities, in its Review of the Scientific and Cultural Conference for World Peace, April 19, 1949 (p. 2), cited the National Council of the Arts, Sciences, and Professions as a Communist-front organization. In this same report the committee cited the Scientific and Cultural Conference for World Peace as a Communist front which 'was actually a supermobilization of the inveterate wheelhorses and supporters of the Communist Party and its auxiliary organizations.'

"Earl B. Dickerson was a national sponsor of the Spanish Refugee Appeal of the Joint Anti-Fascist Refugee Committee, as shown by letterheads of the group dated February 20, 1946, February 3, 1948, May 18, 1951, and January 5, 1953. He signed an open letter of the organization to President Truman on Franco Spain as shown by a letterhead and mimeographed letter of April 28, 1949. He signed a petition of the Spanish Refugee Appeal of the Joint Anti-Fascist Refugee Committee to President Truman 'to bar military aid to or alliance with fascist Spain' as shown by a mimeographed petition attached to a letterhead of the group dated May 18, 1951.

"The Attorney General cited the Joint Anti-Fascist Refugee Committee as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 174), cited the Joint Anti-Fascist Refugee Committee as a Communist-front organization.

"Mr. Dickerson was chairman of the Illinois Legislative and Defense Committee of the International Labor Defense, as shown in Equal Justice, September 1939 (p. 3). He spoke before the International Labor Defense, together with Earl Browder, according to the Daily Worker of October 1, 1942 (p. 5); October 6, 1942 (p. 5); and October 11, 1942 (p. 3). The pamphlet Victory in Oklahoma, October 1943, back cover, listed Earl B. Dickerson as a member of the National Committee of the International Labor Defense.

"The Attorney General cited the International Labor Defense as subversive and Communist in letters released June 1 and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The organization was cited previously by the Attorney General as the 'legal arm of the Communist Party.' (Congressional Record, vol. 88, pt. 6, p. 7446). The Committee on Un-American Activities, in its report of September 2, 1947 (pp. 1 and 2), cited the International Labor Defense as 'part of an international network of organizations for the defense of Communist lawbreakers.'

"Earl B. Dickerson was a speaker at the Conference on Constitutional Liberties, the founding conference of the National Federation for Constitutional Liberties, as shown in the printed program, Call to a Conference, page 2, June 7, 1940.

"The Attorney General cited the conference on Constitutional Liberties in America as a conference as a result of which was established the National Federation for Constitutional Liberties, 'part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program' (Congressional Record, vol. 88, pt. 6, p. 7446). The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 102), cited the conference as 'an important part of the solar system of the Communist Party's front organizations.'

"The program and call to a national conference of the American Committee for Protection of Foreign Born, held in Cleveland, Ohio, October 25 and 26, 1947, listed Earl B. Dickerson as one of the sponsors of the conference; he was one of the sponsors of the sixth national conference, which was held in Cleveland, May 9 and 10, 1942, as shown in a leaflet of the conference, page 4. In the latter source, Mr. Dickerson was identified as a member of the President's Committee on Fair Employment Practices. Earl Dickerson was a sponsor of the American Committee for Protection of Foreign Born as shown by a 1950 letterhead, an undated letterhead (received for files, July 11, 1950), an undated letterhead (distributing a speech of Abner Green at the conference of the American Committee for Protection of the Foreign Born of December 2-3, 1950), and a letterhead of the Midwest Committee for Protection of Foreign Born (April 30, 1951). Mr. Dickerson, identified as president of the Chicago Urban League, was a sponsor of a dinner given by the Midwest Committee for the Protection of Foreign Born for Pearl Hart (Daily Worker, Apr. 6, 1950, p. 4). A letterhead of the sixth annual conference of the Midwest Committee for the Protection of the Foreign Born dated May 16, 1954, Chicago, listed Earl B. Dickerson as a sponsor.

"The Attorney General cited the American Committee for Protection of Foreign Born as subversive and Communist in letters released June 1 and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Special Committee on Un-American Activities in its report of March 29, 1944 (p. 155), cited the American Committee for Protection of Foreign Born as 'one of the oldest auxiliaries of the Communist Party in the United States.'

"In 1942 Earl B. Dickerson was a patron of the Congress of American-Soviet Friendship, as shown on a letterhead of the congress, dated October 27, 1942; he was named in Soviet Russia Today (December 1942 issue, p. 42) as one of the sponsors of the Congress of American-Soviet Friendship; the call to the Congress of American-Soviet Friendship, November 6-8, 1948, listed Earl B. Dickerson among the sponsors. He signed a statement of the National Council of American-Soviet Friendship, praising Wallace's open letter to Stalin, May 1948, as shown in a pamphlet, How To End the Cold War and Build the Peace, page 9. He was identified in the last-named source as an attorney at law, Chicago. A photostatic copy of a letterhead of the Chicago Council of American-Soviet Friendship dated September 17, 1951, listed Earl B. Dickerson as a sponsor of that group. A photostat of a letter of the national council dated March 19, 1952, listed Mr. Dickerson as a sponsor.

"The Attorney General cited the National Council of American-Soviet Friendship as subversive and Communist in letters released December 4, 1957, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 156), cited the National Council as 'in recent months, the Communist Party's principal front for all things Russian.'

"The Daily Worker on October 21, 1942 (p. 1), named Earl B. Dickerson among the list of members of the National Emergency Committee To Stop Lynching. He signed an appeal to lift the Spanish embargo, which appeal was made by the Negro People's Committee to Aid Spanish Democracy, according to the Daily Worker of February 8, 1939 (p. 2). He contributed to the June 22, 1943, issue of New Masses (p. 9). He signed a petition of the Citizen's Committee to Free Earl Browder, as shown in an official leaflet of the organization.

"The National Emergency Committee To Stop Lynching was cited by the Special Committee on Un-American Activities as a Negro Communist-front organization, whose secretary was Ferdinand C. Smith, high in the circles of the Communist Party (report, March 29, 1944, p. 180).

"The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 180), cited the Negro People's Committee To Aid Spanish Democracy as a Communist-front organization.

"New Masses was cited as a Communist periodical by the Attorney General (Congressional Record, vol. 88, pt. 6, p. 7447), and the Special Committee on Un-American Activities (report, Mar. 29, 1955, pp. 48 and 75).

"The Citizen's Committee To Free Earl Browder was cited as Communist by the Attorney General in a letter dated April 27, 1949; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The organization was cited previously by the Attorney General as a Communist organization (Congressional Record, vol. 88, pt. 6, p. 7446). The Special Committee on Un-American Activities, in its report of March 29, 1944 (pp. 6 and 55), cited the Citizens' Committee To Free Earl Browder as follows: When Earl Browder (then general secretary, Communist Party) was in Atlanta Penitentiary serving a sentence involving his fraudulent passports, the Communist Party's front which agitated for his release was known as the Citizen's Committee To Free Earl Browder.

"An open letter demanding discharge of Communist Party defendants in Fulton and Livingston Counties contained the name of Earl B. Dickerson in the list of persons who signed according to the Daily Worker of September 24, 1940, page 5. He was attorney for Eugene Dennis, general secretary, Communist Party, as shown in the Daily Worker of November 19, 1947, page 7, being identified in this source as a former member of the city council, Chicago. Reference to Earl Dickerson as attorney for Eugene Dennis appears in the Worker, November 30, 1947, page 4; the Daily Worker of January 15, 1948, page 5; and the Daily Worker of October 27, 1948, page 10, in which source he is identified as a Negro leader, of Chicago.

"Earl B. Dickerson, was a sponsor of the American Peace Crusade, Illinois assembly, as shown by a letterhead dated April 12, 1951, the Illinois Peace Crusade, May 1951 (p. 4), and a photostat of a letterhead dated June 21, 1952. He was a sponsor of the American People's Congress and Exposition for Peace, held by the American Peace Crusade in Chicago, Ill., June 29, 30, and July 1, 1951, as shown by a leaflet, An Invitation to American Labor To Participate in a Peace Congress, the Call to the American People's Congress, and the leaflet, American People's Congress * * * Invites You To Participate in a National Peace Competition, June 29, 1951, Chicago, Ill. He was a sponsor of a contest held by the American Peace Crusade for songs, essays, and paintings advancing the theme of world peace as reported in the Daily Worker, May 1, 1951 (p. 11).

"The Attorney General included the American Peace Crusade on his January 22, 1954, list of organizations designated pursuant to Executive Order No. 10450, and on the April 1, 1954, consolidated list. The Committee on Un-American Activities, in its statement issued on the March of Treason, February 19, 1951, and report on the Communist Peace Offensive April 1, 1951 (p. 51), cited the American Peace Crusade as an organization which the Communists established as a new instrument for their peace offensive in the United States and which was heralded by the Daily Worker with the usual bold headlines reserved for projects in line with the Communist objectives.

"Masses and Mainstream for February 1952 (pp. 52-56) listed Earl B. Dickerson as coauthor of an amicus curiae brief to the Supreme Court supporting an appeal for a rehearing of its decision upholding the Smith Act, dated September 27, 1951.

"According to the April 30, 1950, issue of the Worker (p. 15), Earl B. Dickerson was a sponsor of the Midcentury Conference for Peace, cited by the Committee on Un-American Activities as a meeting held in Chicago, May 29 and 30, 1950, by the Committee for Peaceful Alternatives to the Atlantic Pact and as having been 'aimed at assembling as many gullible persons as possible under Communist direction and turning them into a vast sounding board for Communist propaganda' (report on Communist peace offensive, April 1, 1951, p. 58).

"Earl B. Dickerson was a sponsor of the National Committee To Defeat the Mundt Bill as shown by the pamphlet, Hey, Brother, There's a Law Against You (p. 2); a release of June 15, 1949 (p. 2), and a photostat of a letterhead dated May 6, 1950. He signed a statement of the organization according to the Daily Worker of April 3, 1950 (p. 4).

"The Committee on Un-American Activities, in its report on the National Committee To Defeat the Mundt Bill, December 7, 1950, cited the organization as 'a registered lobbying organization which has carried out the objectives of the Communist Party in its fight against antislavery legislation.'

"Earl B. Dickerson signed a letter defending the 12 Communist leaders, as shown on a letterhead, dated January 7, 1949; he later signed a statement asking for the release of the Communist leaders, as shown in the Daily Worker of November 8, 1949 (p. 6). He signed a brief on behalf of the attorneys who represented the Communist leaders, as shown in the Daily Worker of November 2, 1949 (p. 2); he signed a statement on behalf of the attorneys, as shown in the Daily Worker of December 7, 1949 (p. 5); he represented the attorneys who represented the 11 Communist leaders, according to the Daily Worker of January 24, 1950 (p. 3)."

"FEBRUARY 13, 1956.

"Subject: Benjamin E. Mays, national board of directors, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"The Daily Worker, March 4, 1948 (p. 2), named Benjamin E. Mays as one of the signers of a letter in behalf of Communist deportation cases, which was sponsored by the American Committee for Protection of Foreign Born. A letterhead of the group contained his name as one of the sponsors (letterhead December 11 and 12, 1948).

"The Attorney General of the United States cited the American Committee for Protection of Foreign Born as subversive and Communist in letters furnished the Loyalty Review Board and released to the press by the United States Civil Service Commission June 1 and September 21, 1948. The group was redesignated by the Attorney General April 29, 1953, pursuant to Executive Order No. 10450. The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 155), cited the committee as 'one of the oldest auxiliaries of the Communist Party in the United States.'

"Benjamin E. Mays, president, Morehouse College, was a member of the initiating committee for a Congress on Civil Rights which was held in Detroit, April 27 and 28, 1946. (See, Urgent Summons to a Congress on Civil Rights.) He was an honorary national chairman of the Civil Rights Congress, New York, as shown by an undated letterhead concerning a conference held October 11, 1947. He signed a call for a national conference of the Civil Rights Congress to be held in Chicago (Daily Worker, Oct. 21, 1947, p. 5).

"The Civil Rights Congress was cited as subversive and Communist by the Attorney General in letters released December 4, 1947, and September 21, 1948. The group was redesignated pursuant to Executive Order No. 10450. The Committee on Un-American Activities, in its report of September 2, 1947 (pp. 2 and 19), cited the Civil Rights Congress as an organization formed in April 1946 as a merger of two other Communist-front organizations (International Labor Defense and the National Federation for Constitutional Liberties): 'dedicated not to the broader issues of civil liberties, but specifically to the defense of individual Communists and the Communist Party' and 'controlled by individuals who are either members of the Communist Party or openly loyal to it.'

"Dr. Benjamin E. Mays, president, Morehouse College, Atlanta, Ga., signed a statement by the National Council of American-Soviet Friendship in praise of Wallace's open letter to Stalin, May 1948 (pamphlet, How To End the Cold War and Build the Peace, p. 9). A leaflet, 'End the Cold War—Get Together for Peace.' (December 1948 named Benjamin E. Mays as one of the signers of the National Council's appeal to the United States Government to end the cold war and arrange a conference with the Soviet Union. He was a member of the Sponsoring Committee of the National Council of American-Soviet Friendship. Committee on Education, as shown by a bulletin of the group, dated June 1945 (p. 22).

"The National Council of American-Soviet Friendship was cited as subversive and Communist by the Attorney General in letters released December 4, 1947, and September 21, 1948. The group was redesignated pursuant to Executive Order No. 10450. The special Committee on Un-American Activities, in its report of March 29, 1944 (p. 166), cited the National Council of American-Soviet Friendship as 'in recent months, the Communist Party's principal front for all things Russian. . . .'

"Dr. Mays signed an open letter sponsored by the National Federation for Constitutional Liberties denouncing United States Attorney Biddle's charges against Harry Bridges (Daily Worker, July 19, 1942, p. 4); booklet, '600 Prominent

Americans,' p. 25). He also signed a statement sponsored by this organization hailing the War Department's order on commissions for the Communists, as shown by the Daily Worker, March 18, 1945, (p. 2).

"The National Federation for Constitutional Liberties was cited as subversive and Communist by the Attorney General in letters released December 4, 1947, and September 21, 1948. The group was redesignated pursuant to Executive Order No. 10450. The group was cited previously by the Attorney General as 'part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program' (Congressional Record, vol. 88, pt. 8, p. 7446). The special committee, in its report of March 29, 1944 (p. 50), cited the federation as one of the viciously subversive organizations of the Communist Party. The Committee on Un-American Activities, in its report on September 2, 1947 (p. 3), cited the federation as among a maze of organizations which were spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law.

"Letterheads, dated June 12, 1947, and August 11, 1947, of the Southern Negro Youth Congress, list Dr. Mays as a member of the advisory board. A leaflet of the organization (exhibit 40, public hearings, July 22, 1947, Steele) also contained the name of Dr. Benjamin Mays.

"The Southern Negro Youth Congress was cited as subversive and among the affiliates and committees of the Communist Party, U.S.A., which seeks to alter the form of government of the United States by unconstitutional means by the Attorney General in a letter released December 4, 1947. The group was redesignated pursuant to Executive Order No. 10450. The special committee, in its report of January 3, 1940 (p. 9), cited the organization as a Communist front. The Committee on Un-American Activities, in its report of April 17, 1947 (p. 14), cited the Southern Negro Youth Congress as surreptitiously controlled by the Young Communist League.

"The Daily Worker, April 27, 1947 (p. 24), reported that Dr. Benjamin E. Mays, Georgia, signed a statement against the ban on the Communist Party. He signed a statement against the North Atlantic Pact, according to the Daily Worker of June 28, 1949 (p. 2). He spoke at a conference on 'Jim Crow in the Nation's Capital' (Daily Worker, December 21, 1950, p. 8)."

"OCTOBER 25, 1955.

"Subject: A. T. Walden, national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"The Daily Worker of October 7, 1952 (p. 3), reported that A. T. Walden, Georgia, was to lead the National Lawyers Guild workshop discussions at a national conference on civil rights, legislation, and discrimination, New York City, October 10, 11, and 12.

"The special Committee on Un-American Activities, in its report of March 29, 1944 (p. 149), cited the National Lawyers Guild as a Communist-front organization. The Committee on Un-American Activities, in its report on the National Lawyers Guild, September 17, 1950, cited the group as a Communist front which is the foremost legal bulwark of the Communist Party, its front organizations and controlled unions and which since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents.

A mimeographed letter addressed to the House of Representatives, May 12, 1948, included a list of signers opposing the Mundt anti-Communist bill. Austin T. Walden, Georgia, was one of those signers."

"OCTOBER 25, 1955.

"Subject: Arthur D. Shores, national legal committee, NAACP, 1954.

"The public records, files, and publications, of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"According to letterheads of the Southern Negro Youth Congress, dated June 12 and August 11, 1947, Arthur D. Shores was a member of the advisory board of this organization. A page from an undated leaflet of the organization also listed Mr. Shores as a member of the advisory board. Arthur Shores, Negro attorney, was associated with Nesbitt Elmore in the defense of Senator Glen H. Taylor, of Idaho, who was fined \$50 and ordered a 180-day suspended jail sentence for defying Birmingham's segregation laws at a meeting of the Southern Negro Youth Congress in Alabama (Daily Worker, May 6, 1948, p. 4).

"The Southern Negro Youth Congress was cited by the Committee on Un-American Activities as 'surreptitiously controlled' by the Young Communist League (report 271, Apr. 17, 1947, p. 14). The special Committee on Un-American Activities, in its report dated January 3, 1940, page 9, cited the Congress as a Communist front. The Attorney General of the United States cited the Southern Negro Youth Congress as subversive and among the affiliates and committees of the Communist Party, United States of America, which seeks to alter the form of Government of the United States by unconstitutional means (letter furnished the Loyalty Review Board, released to the press by the United States Civil Service Commission, Dec. 4, 1947); the Attorney General redesignated the Congress pursuant to Executive Order No. 10450 of April 27, 1953, and included it on the April 1, 1954, consolidated list of organizations previously designated.

"Arthur D. Shores, prominent Negro attorney, told the Daily Worker that 'outlawing the Communist Party would "pave the way for a one-party dictatorship in this country."' (Daily Worker, March 10, 1947, p. 5).

"The Worker for December 14, 1947 (p. 8, southern edition), reported that Arthur Shores, identified as a leading Negro civil rights lawyer, was assisting in the case of Mrs. Ruby Jackson Gainor, 'outstanding Negro teacher fired by the Jefferson County Board of Education. . . . Mrs. Jackson is the leading petitioner in contempt-of-court proceedings against the board for its refusal to equalize salaries of Negro teachers in accord with a Federal court decree'. The article, which identified Mrs. Gainor as president of the Birmingham teachers' local of the United Public Workers, also reported: 'The outcome of Mrs. Gainor's case has become the keystone of the fight of all the Negro teachers in Jefferson County for equal pay. The United Public Workers nationally is supporting the fight'.

"It is noted that the United Public Workers of America was formed in 1946 by a merger of the State, County, and Municipal Workers of America and the United Federal Workers of America. Both of these unions were cited by the Special Committee on Un-American Activities in its report of March 29, 1944 (pp. 18 and 19), as among the CIO unions in which the committee found Communist leadership strongly entrenched. The Congress of Industrial Organizations, by vote of the executive board, February 16, 1950, expelled the United Public Workers of America, effective March 1, 1950, on charges of Communist domination (press release, 12th CIO convention, November 20-24, 1950)."

"OCTOBER 13, 1955.

Subject: Lloyd Garrison, chairman, national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"Lloyd K. Garrison was a member of the National Committee of the International Juridical Association according to a letterhead of the organization dated May 18, 1942, and the leaflet, 'What is the I.J.A.?' Lloyd K. Garrison, dean, University of Wisconsin Law School, commended the International Juridical Association bulletin in that pamphlet.

"The Special Committee on Un-American Activities, in its report dated March 20, 1944 (p. 149), cited the International Juridical Association as a 'Communist front and offshoot of the International Labor Defense.' The Committee on Un-American Activities, in its report on the National Lawyers Guild, September 17, 1950 (p. 12), cited the International Juridical Association as an 'organization which 'actively defended Communists and consistently followed the Communist Party line.'

"The daily Worker for March 18, 1945 (p. 2), and an undated leaflet, 'The only sound policy for a Democracy,' listed Lloyd K. Garrison, National War Labor Board, as one of the signers of a statement sponsored by the National Federa-

tion for Constitutional Liberties hailing the War Department order on commissions for the Communists. A photograph of Mr. Garrison is found in the Daily Worker reference.

"The Attorney General of the United States cited the National Federation for Constitutional Liberties as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948. The Attorney General redesignated the organization April 27, 1953, pursuant to Executive Order No. 10450, and included it on the April 1, 1954, consolidated list of organizations previously designated. The organization was cited previously by the Attorney General as 'part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program * * * (Congressional Record, vol. 88, pt. 6, p. 7446). The Special Committee on Un-American Activities, in its report on March 29, 1944 (p. 50), cited the National Federation for Constitutional Liberties as 'one of the viciously subversive organizations of the Communist Party.' The Committee on Un-American Activities, in its report of September 2, 1947 (p. 3), cited the National Federation for Constitutional Liberties as among a 'maze of organizations' which were 'spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law.'

"Lloyd K. Garrison, Madison, Wis., former Chairman of NLRB, was listed as a member of the Committee on Legal Research and Legal Education of the National Lawyers Guild and his book was reviewed in the newsletter of the National Lawyers Guild, July 1937 (pp. 2-3). Convention News, May 1941 (pp. 3 and 4), published by the National Lawyers Guild for the fifth annual convention, listed Lloyd K. Garrison as a member of the convention nominations committee of the fifth annual convention, Book-Cadillac Hotel, Detroit, Mich., May 29 to June 1, 1941.

"The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 149), cited the National Lawyers Guild as a Communist-front organization. The Committee on Un-American Activities, in its report on the National Lawyers Guild, September 17, 1950, cited the organization as a Communist front which 'is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents.'

"The pamphlet of the Second National Negro Congress, October 1937, listed Lloyd Garrison as one of those who sent greetings to the congress.

"The Communist-front movement in the United States among Negroes is known as the National Negro Congress. * * * The officers of the National Negro Congress are outspoken Communist sympathizers, and a majority of those on the executive board are outright Communists" (Special Committee on Un-American Activities, report, January 8, 1939, p. 81; also cited in reports, January 3, 1940, p. 9; June 25, 1942, p. 20; and March 29, 1944, p. 180). The Attorney General cited the National Negro Congress as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The Attorney General cited the organization previously as a Communist-front organization as shown by the Congressional Record, volume 88, part 6, page 7447.

"The Daily Worker for February 23, 1939 (p. 3) reported that Lloyd Garrison spoke at a conference of the Wisconsin Conference on Social Legislation, Madison, Wis., February 18, 1939. The Attorney General cited the Wisconsin Conference on Social Legislation as subversive and Communist in letters released June 1 and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list."

"OCTOBER 23, 1955.

"Subject: Sidney A. Jones, national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"Sidney A. Jones, attorney, was an endorser of the National Negro Congress as shown on the call for National Negro Congress, in Chicago, Ill., February 14, 1936.

"The Attorney General of the United States cited the National Negro Congress as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list of organizations previously designated. The organization was cited previously by the Attorney General (Congressional Record, vol. 88, pt. 6, pp. 7746-7747). The Special Committee on Un-American Activities, in its report of January 3, 1939 (p. 31), cited the National Negro Congress as 'The Communist-front movement in the United States among Negroes. * * *'

"It was reported in the Daily People's World of December 2, 1947 (p. 4), that Sidney A. Jones, Jr., was vice president of the Chicago chapter of the National Lawyers Guild, and was further identified as being associated with the National Association for Advancement of Colored People, Urban League, Chicago. Mr. Jones was shown as an executive board member of the National Lawyers Guild from Chicago as of December 1949 and May 1950 in the Committee on Un-American Activities' report on the National Lawyers Guild September 17, 1950 (pp. 18-19).

"The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 149), cited the National Lawyers Guild as a Communist-front organization. The Committee on Un-American Activities, in its report on the National Lawyers Guild, September 17, 1950, cited the group as a Communist front which 'is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents.'

"The Daily Worker of April 3, 1950 (p. 4), listed Sidney A. Jones, attorney, Chicago, Ill., as one who signed a statement of the National Committee to Defeat the Mundt Bill. A photostat of a letterhead of the National Committee to Defeat the Mundt Bill (Chicago chapter), dated May 5, 1950, listed Sidney A. Jones as a Chicago sponsor of the organization.

"The Committee on Un-American Activities, in its report on the National Committee to Defeat the Mundt Bill, December 7, 1950, cited the organization as 'a registered lobbying organization which has carried out the objectives of the Communist Party in its fight against antiradical legislation.'

"Sidney Jones, vice president of the National Association for Advancement of Colored People, sent greetings to Paul Robeson according to the Daily Worker of April 29, 1947 (p. 12). He signed Labor Day greetings to the Daily People's World, which appeared in the August 29, 1947 (p. 4), issue of that paper; signed Statement by Negro Americans, in behalf of arrested Communist leaders (the Worker of August 29, 1948, p. 11); and he signed a statement on release of Communist leaders, and was identified as a Negro attorney in Chicago as noted in the Daily Worker of November 8, 1949 (p. 6).

"The Daily Worker of December 23, 1952 (p. 8), listed Sidney Jones, attorney, Chicago, as a signer of an open letter to President Truman asking clemency for the Rosenbergs."

"OCTOBER 25, 1953.

"Subject: W. Robert Ming, Jr., national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. The report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"An election campaign letter of the National Lawyers Guild, dated May 18, 1940, listed Robert W. Ming, Jr., as the candidate for delegate to the national convention, Washington, D.C., chapter. Robert Ming, Jr., Washington, D.C., was a member of the convention nominations committee, fifth annual convention of the National Lawyers Guild, Book-Cadillac Hotel, Detroit, Mich., May 20 to June 1, 1941.

"The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 149), cited the National Lawyers Guild as a Communist-front organization. The Committee on Un-American Activities, in its report on the National Lawyers Guild, September 17, 1950, cited the organization as a Communist front which 'is the foremost legal bulwark of the Communist Party, its front organizations and controlled unions' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents.'

"A 1941 membership list of the Washington Book Shop listed Robert W. Ming, Jr., Howard University, Washington, D.C., as a member.

"The Attorney General of the United States cited the Washington Book Shop Association as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list of organizations previously cited. The organization was cited previously by the Attorney General as a Communist-front (Congressional Record, vol. 88, pt. 6, p. 7447). The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 150), cited the Washington Book Shop Association as a Communist-front organization."

"OCTOBER 25, 1955.

"Subject: Arthur J. Mandell, national legal committee, NAACP, 1951.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"The News Letter of the National Lawyers Guild, July 1937 (p. 2), named Arthur Mandell, Houston, Tex., as a member of the Guild's committee on American citizenship, immigration, and naturalization; and a copy of the 1939 membership list of the National Lawyers Guild, made available to the Special Committee on Un-American Activities by the organization, contained the name of Arthur Mandell, Shell Building, Houston, Tex.

"The National Lawyers Guild was cited as a Communist front by the Special Committee on Un-American Activities (report, Mar. 20, 1944, p. 149); and it was the subject of a separate report by the Committee on Un-American Activities (II. Rept. No. 3123, Sept. 21, 1950), wherein it was cited as a Communist front which 'is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents.'

"Arthur J. Mandell, attorney, Houston, Tex., was shown in the Call to the First Congress of the Mexican and Spanish American Peoples of the United States, March 24-26, 1939, Albuquerque, N. Mex., as one of the signers of that Call. The Congress of the Mexican and Spanish American Peoples * * * was cited as a Communist front by the Special Committee on Un-American Activities (report, Mar. 20, 1944, p. 120).

"A leaflet, attached to an undated letterhead of the National Federation for Constitutional Liberties, named Arthur J. Mandell, attorney, Houston, Tex., as a signer of the organization's January 1943 message to the House of Representatives. The National Federation for Constitutional Liberties has been cited as being subversive and Communist (Attorney General letters released December 4, 1947, and September 21, 1948; also redesignated by the Attorney General pursuant to Executive Order 10450, see consolidated list, April 1, 1954); as 'part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program' (Attorney General, Congressional Record, vol. 88, pt. 6, p. 7446); as 'one of the viciously subversive organizations of the Communist Party' (Special Committee on Un-American Activities, report, Mar. 20, 1944, p. 50; also cited in reports, June 25, 1942, and Jan. 2, 1943); and as being among a 'maze of organizations' which were 'spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law' (Committee on Un-American Activities, report, Sept. 2, 1947, p. 8).

"Arthur Mandell was a member of the resolutions committee at the Congress on Civil Rights in Detroit, Mich., April 27-28, 1946, as shown by a mimeographed release issued by the congress; and Arthur J. Mandell, Houston, was listed as a sponsor of the National Conference of the Civil Rights Congress in Chicago, November 21-23, 1947, in the printed program, Let Freedom Ring. The Civil Rights Congress has been cited as a subversive and Communist organization by the Attorney General (letters released December 4, 1947, and September 21, 1948; also redesignated, see consolidated list, April 1, 1954); and, as an organization formed in April 1946 by merger of two other Communist-front organizations (International Labor Defense and the National Federation for Constitutional Liberties), 'dedicated not to the broader issues of civil liberties, but specifically to the defense of individual Communists and the Communist Party,' and 'controlled by individuals who are either members of the Communist Party or openly loyal to it' (Committee on Un-American Activities, House Report No. 1115, Sept. 2, 1947, pp. 2 and 10)."

"OCTOBER 20, 1955.

"Subject: Robert W. Kenny, national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

Reference to Robert W. Kenny is found in the appendix to this committee's public hearings regarding communism in the United States Government, part 2, September 1950 (pp. 2001-2002), as follows:

"Robert W. Kenny: Kenny, attorney general of State of California during the years 1943-47 and president of the National Lawyers Guild during the years 1940-48, has been associated with the defense of a number of Communist cases. He was also one of the attorneys for the Hollywood 10. He sent greetings to the Biennial National Conference of the International Labor Defense held April 4-6, 1941; this organization was cited by the former Attorney General Francis Biddle as the 'legal arm of the Communist Party.'

"The American Committee for Protection of Foreign Born has specialized in the legal defense of foreign-born Communists such as Gerhard Eisler. Kenny was a sponsor of its national conference held in Ohio on October 25-26, 1947, and again in 1950. He spoke in behalf of Communists held for deportation, according to the Daily People's World, Communist publication, dated March 8, 1948.

"On repeated occasions, Mr. Kenny has attacked the trial of the 11 Communist leaders convicted for teaching and advocating the overthrow of the Government of the United States by force and violence, particularly as reported by the Daily People's World of July 22, 1948, and the Worker of October 30, 1949.

"He signed a statement in behalf of arrested leaders of the Communist Party of Los Angeles, according to the Daily Worker of October 10, 1949, and the Daily People's World of November 7, 1949. Statements opposing the outlawing or restricting of the Communist Party have been signed by Robert W. Kenny and have appeared frequently in the Communist press. Mr. Kenny has opposed Government loyalty procedures on various occasions.

"On the eve of the 1947 May Day celebration, Pravda, the official newspaper of the Communist Party of the Soviet Union, hailed Robert W. Kenny as a 'friend of the Soviet Union in the United States.' Another Communist government, namely that of China, selected Mr. Kenny to defend its legal interests, according to the Daily People's World of April 20, 1950 (p. 4).

"Robert W. Kenny has a number of affiliations and associations with Communist-front organizations. These include the American Youth for Democracy (formerly known as the Young Communist League), the National Committee to Win the Peace, of which he was vice chairman, Civil Rights Congress, Joint Anti-Fascist Refugee Committee, American Committee for Yugoslav Relief, Hollywood League for Democratic Action, California Labor School, Lawyers Committee on American Relations with Spain, Committee for a Democratic Far Eastern Policy, and the American Slav Congress.

"Subsequent to this committee's release which contained the above reference to Robert W. Kenny, he had served as counsel for 60 witnesses before this committee."

"OCTOBER 25, 1935.

"Subject: Milton R. Konvitz, national legal committee, NAACP, 1934.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"A membership list of the National Lawyers Guild contains the name of Milton Konvitz, 744 Broad Street, Newark, N.J. (List in committee files.) The National Lawyers Guild was cited as a Communist-front organization by the special Committee on Un-American Activities (report, Mar. 29, 1944, p. 149). The organization was cited as a Communist front which 'is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents' (Committee on Un-American Activities, report on the National Lawyers Guild, Sept. 21, 1950)."

"OCTOBER 25, 1935.

"Subject: Loren Miller, national legal committee, NAACP, 1934.

"The public records, files, and publications of this committee contain the following information concerning subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"One Loren Miller, 837 East 24th Street, Los Angeles, Calif., was a signer of Communist Party election petition No. 120 in California in 1932.

"An article entitled 'Why I Will Vote "Red"' written by Loren Miller appeared in the Daily Worker of July 11, 1932 (p. 4). In a note which accompanies this article, the following information is given concerning the author: 'Loren Miller, until recently city editor of the California Eagle, Los Angeles, Calif., largest and oldest of western Negro newspapers, is now en route to the Soviet Union.' Excerpts from this article follow:

"I regret very much that I will not be present to take an active part in the struggle that Negroes must wage to pile up a huge vote for William Z. Foster and James W. Ford, Communist candidates for President and Vice President.

"It must be evident to anybody who thinks through the things about which I have been talking that the Communist Party is our party. It is fighting our fights, warring against our enemies, struggling for our welfare. Commonsense dictates that we should support our party with every means at hand."

"Loren Miller wrote an article for the Daily Worker while he was traveling in the Soviet Union with a group of Negro writers, workers, etc., observing conditions. This article concerned the equality of races in the Soviet Union and appeared in the Daily Worker of September 24, 1932 (p. 4). Mr. Miller compared racial equality in the Soviet Union and the United States, stated that the Communist Party in the United States was the only political party which promised equality, and concluded as follows:

"Only the Communists with their straightforward platform on relief for the poor (sic) farmers and workers, their demand for self-determination for Negroes in the Black Belt, and with a Negro, James W. Ford, as nominee for the Vice Presidency deserve the vote of the Negroes of the United States. It is for these reasons that I wish to renew my plea to Negroes everywhere in the United States to vote Communist."

"The Daily Worker of January 26, 1948 (p. 10), reported that Loren Miller, attorney, Los Angeles, defended Claudia Jones, Communist. He signed a statement opposing the Mundt anti-Communist bill as shown by the Daily People's World of May 12, 1948 (p. 3). According to the Daily People's World of July 22, 1948 (p. 3), Loren Miller, attorney, Los Angeles, attacked the arrest of the Communist Party leaders.

"In the Daily Worker of December 24, 1931 (p. 3), Loren Miller was named as a reporter for the Worker. Reference to Loren Miller as a reporter for the Worker appeared in the Daily Worker of December 21, 1935 (p. 3). Loren Miller has been a contributor to the Daily Worker as shown in the issue of May 4, 1938 (p. 7), as well as the two issues already cited.

"The Worker is the Sunday edition of the Daily Worker, which was cited as 'official Communist Party, U.S.A., organ' by the Committee on Un-American Activities in report 1920, dated May 11, 1948. The publication was cited as 'chief journalistic mouthpiece of the Communist Party' by the special committee on Un-American Activities in report 1311 of March 20, 1944; it had previously been cited as a Communist publication in reports of the special Committee on Un-American Activities, dated January 3, 1939, January 3, 1940, January 3, 1941, and June 25, 1942.

"Loren Miller was named as editor of New Masses in the issue of August 20, 1935 (p. 5), and as associate editor in the issue of January 14, 1936 (p. 5). He was shown as contributing editor in the following issues of New Masses: June 2, 1936 (p. 5), January 6, 1937 (p. 22), May 11, 1937 (p. 9), September 7, 1937 (p. 9), January 11, 1938 (p. 9), and September 20, 1938 (p. 14). He was a contributor to New Masses, as shown in the issue of August 20, 1935 (p. 26), and was named as a contributor to New Masses in the Daily Worker of April 3, 1936 (p. 8).

"New Masses was cited as a 'Communist periodical' by the Attorney General of the United States (Congressional Record, vol. 88, pt. 6, p. 7447). It was cited as a 'national circulated weekly journal of the Communist Party' by the special Committee on Un-American Activities in report 1311 of March 20, 1944. New Masses had been cited previously as a Communist publication in reports of the special Committee on Un-American Activities, dated January 3, 1939, and June 25, 1942.

"As shown by an undated letterhead of Book Union, Inc., Loren Miller was a member of its advisory council. The Special Committee on Un-American Activities, in report 1311 of March 20, 1944, cited Book Union as 'distributor of Communist literature.'

"According to a letterhead of August 24, 1939, Loren Miller was a member of the Harry Bridges defense committee, southern division.

"In report 1811 of the special Committee on Un-American Activities, dated March 20, 1944, the Harry Bridges defense committee was cited as one of the Communist fronts formed to oppose deportation of Harry Bridges, Communist Party member and leader of the San Francisco general strike of 1934 which was planned by the Communist Party.

"As shown in the Call for the National Negro Congress held in Chicago, Ill., February 14, 1936, Loren Miller, Los Angeles, Calif., was one of the endorsers of the National Negro Congress.

"From the record of its activities and the composition of its (National Negro Congress) governing bodies, there can be little doubt that it has served as what James W. Ford, Communist Vice Presidential candidate elected to the executive committee in 1937, predicted: 'An important sector of the democratic front,' sponsored and supported by the Communist Party' (Attorney General, Congressional Record, vol. 88, pt. 6, p. 7446). The National Negro Congress was cited as a Communist front in reports of the Special Committee on Un-American Activities, dated January 3, 1939, January 3, 1940, June 25, 1942, and March 20, 1944. The Attorney General cited the group as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list.

"Loren Miller, author, was a signer of the open letter to American liberals, as shown in Soviet Russia Today, issue of March 1937 (pp. 14-15).

"In March 1937 a group of well-known Communists and Communist collaborators published an open letter bearing the title given above. The letter was a defense of the Moscow 'purge trial' (report of the special Committee on Un-American Activities, June 25, 1942).

"As shown in the Proceedings of the Second United States Congress Against War and Fascism, held in Chicago, Ill., September 28, 29, 30, 1934, under auspices of the American League Against War and Fascism, the report of the publications committee was presented by Loren Miller. (See public hearings, appendix, vol. 10, p. 22.)

"The American League Against War and Fascism was formally organized at the First United States Congress Against War and Fascism held in New York City, September 29 to October 1, 1933. * * * The program of the first congress called for the end of the Roosevelt policies of imperialism and for the support of the peace policies of the Soviet Union, for opposition to all attempts to weaken the Soviet Union. * * * Subsequent congresses in 1934 and 1936 reflected the same program' (Attorney General, Congressional Record, vol. 88, pt. 6, p. 7442).

"The American League Against War and Fascism was 'established in the United States in an effort to create public sentiment on behalf of a foreign policy adapted to the interests of the Soviet Union' (Attorney General, Congressional Record, vol. 88, pt. 6, p. 7442). The Attorney General cited the American League Against War and Fascism as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list of organizations previously designated. The organization was cited by the special Committee on Un-American Activities as a Communist front in reports of the special Committee on Un-American Activities, dated January 3, 1939, January 3, 1940, June 25, 1942, and March 20, 1944.

"In connection with the testimony of Harper L. Knowles and Ray E. Nimmo before the special Committee on Un-American Activities on October 25, 1938, a brief relating to activities of the Communist Party among professional groups was presented and incorporated in the record. In this brief Loren Miller is described as 'contributing editor to New Masses and a member of the Communist Party' (public hearings, p. 1937). According to this same source, he was a participant in the Western Writers Congress, cited as a Communist front by the special Committee on Un-American Activities in report 1311 of March 20, 1944.

"A pamphlet, 'Equality, Land and Freedom,' published by the League of Struggle for Negro Rights, December 1934 (p. 44), listed Loren Miller as a member of the national council of that organization.

"The special Committee on Un-American Activities, in its report of January 3, 1939 (p. 81), cited the League of Struggle for Negro Rights as follows: 'The Communist-front movement in the United States among Negroes is known as the National Negro Congress. Practically the same group of leaders directing this directed the League of Struggle for Negro Rights, which was, until 2 years ago, the name of the Communist front for Negroes. The name was later changed * * * in 1939 to the National Negro Congress.'

"It was reported in the Daily People's World of September 28, 1950 (p. 5) that Loren Miller was one of a group of Los Angeles lawyers who signed a brief against a Communist registration ordinance. The brief was presented in connection with the case of Henry Steinberg, county legislative director of the Communist Party, who was charged with failing to register with the sheriff's office in accordance with provisions of the ordinance. Reference to Loren Miller as one of the attorneys who signed a brief charging Los Angeles County's Communist registration ordinance with being 'basically unconstitutional' also appeared in the Daily People's World of October 9, 1950 (p. 3). The brief was filed in connection with a hearing on a demurrer against the ordinance filed by attorneys for Gus Brown, Furniture Workers Local 578 business agent.

"The Daily People's World of May 17, 1950 (p. 3), listed Loren Miller as one who signed a statement against the loyalty oath."

"OCTOBER 20, 1955.

"Subject: Bartley Crum, national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"The Daily Worker of March 15, 1947 (p. 5) printed statements made by several individuals, registering opposition to the proposal of Secretary of Labor Schwelmbach to outlaw the Communist Party. Bartley Crum's statement, which immediately follows that of Robert W. Kenny, reads:

"It is unconstitutional and utterly stupid for Government to attempt to prevent people from thinking or believing as they wish. Action of this sort is contrary to the Bill of Rights. This Government was founded on the theory that we are not afraid of what any person or group of persons might think. Freedom of belief and freedom of speech are guaranteed.

"The Supreme Court has ruled that these freedoms may be limited only when a clear and present danger to the country exists. In that event the burden of proof rests upon Government which must show that the clear and present danger arises from the beliefs that are put forward.

"As a non-Communist, I think the most effective answer to the Marxists is to make our democracy work by providing equality and job opportunities for all, strengthening the trade unions and raising the standard of living."

"The official organ of the Communist Party on the west coast, the Daily People's World of November 8, 1947 (p. 6), published an editorial regarding Mr. Crum, in which the Honorable Jack B. Tenney, chairman, California State Committee on Un-American Activities, was quoted as having called Mr. Crum a 'Communist for every practical purpose.'

"Mr. Crum was attorney for Harry Bridges on behalf of the Civil Liberties Union (U.S. Supreme Court reports, 80 Law. Ed. October 1944 Term, U.S. 323-325, U.S. 320, p. 2106); he was identified as being from San Francisco. He was attorney for John Howard Lawson (brief for John Howard Lawson, U.S. Court of Appeals, February 10, 1940, District of Columbia, No. 9872); he was attorney for Dalton Trumbo (brief of Dalton Trumbo v. United States of America, U.S. Court of Appeals, District of Columbia, No. 9873); he served as attorney for John Howard Lawson, Dalton Trumbo, Samuel Ornitz, Edward Dmytryk, Adrian Scott, Ring Lardner, Jr., Lester Cole, and Bert Brecht (hearings before the Committee on Un-American Activities, October 27, 28, 29, and 30, 1947).

"In a report on the National Lawyers Guild which was released by this committee September 17, 1950, a list of National Lawyers Guild members who have represented witnesses before the Committee on Un-American Activities was shown. 'In each case, the witnesses have refused to answer questions regarding Communist affiliations propounded by the committee. In a number of cases espionage activities were involved. It should be noted in this connection that it is standard Communist practice to accept as attorneys only those who agree to abide by the party's propaganda and conspirative directives. Cases are known where attorneys who have volunteered their services have been summarily rejected because they would not become partners to the party's ulterior purposes.' (Report on the National Lawyers Guild, p. 3.) The same report also named Mr. Crum as one of the vice presidents of the guild as of December 1949 and May 1950 (p. 19 and 10).

"Mr. Crum was vice president of the guild in 1945, as shown in the Daily Worker of September 25, 1945 (pp. 1 and 2); in 1947, as shown on a letterhead of the guild dated June 11, 1947, and a printed program of their conference on 'Legislative Investigation? or Thought Control Agency?' dated October 20, 1947 (p. 3); and in 1948 as shown on letterheads of March 8 and May 7, and the Daily Worker of February 24, 1948 (p. 3).

"The National Lawyers Guild was cited as a Communist-front organization by the special Committee on Un-American Activities (report of March 20, 1944); it was the subject of a report released by the Committee on Un-American Activities September 17, 1950, in which the guild was cited as 'the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions.'

"The statement of policy of the National Committee to Win the Peace (dated February 6, 1947), contains the name of Bartley Crum in a list of persons who organized that committee; a letterhead of the Win-the-Peace Conference, dated February 28, 1946, named him as one of the sponsors of that conference, as does the Daily Worker of March 5, 1946 (the conference was held in Washington, D.C., April 5-7, 1946); the call to that conference contained Mr. Crum's name in a list of sponsors. A letterhead of the New York Committee to Win the Peace, dated June 1, 1946, lists his name as vice chairman of the national committee; the New York committee call to Win-the-Peace Conference, June 28 and 29, 1946, also listed him as vice chairman of the national committee.

"The Attorney General of the United States cited the National Committee to Win the Peace as subversive and Communist (press releases of December 4, 1947 and September 21, 1948; included on consolidated list of April 1, 1954).

"A letterhead of the Conference on China and the Far East, dated September 19, 1946, carries the name of Bartley C. Crum in a list of sponsors of that conference which was called by the National Committee to Win the Peace and the Committee for a Democratic Far Eastern Policy; the call to that conference, which was held October 18-20, 1946, shows him as one of the sponsors; the Committee for a Democratic Far Eastern Policy was cited by the Attorney General as Communist (press release of April 27, 1949, and consolidated list of April 1, 1954).

"Mr. Crum was one of the National Sponsors of the Spanish Refugee Appeal of the Joint Anti-Fascist Refugee Committee (letterheads of that group dated February 26, 1946; February 3, 1948; April 28, 1949; May 18, 1951; and January 5, 1953); he spoke before a rally of that organization in Madison Square Garden, as shown in the Daily Worker of September 25, 1945 (pp. 1 and 2); an invitation to dinner which was issued by the Joint Anti-Fascist Refugee Committee for March 31, 1948, named Mr. Crum as a member of the National

Reception Committee for Madame Irene Joliet-Curie who was in this country for a speaking tour, sponsored by the Joint Anti-Fascist Refugee Committee.

"The Joint Anti-Fascist Refugee Committee was cited as subversive and Communist (press releases of the Attorney General dated September 21, 1948, and December 4, 1947; also included on consolidated list of April 1, 1954); the Special Committee on Un-American Activities cited it as a Communist-front organization in report 1311 of March 29, 1944.

"New Masses for October 30, 1945 (back page), and a letterhead of the American Committee for Spanish Freedom, dated January 21, 1946, both name Mr. Crum as vice chairman of that committee, cited as Communist by the Attorney General (press release of April 27, 1949; consolidated list of April 27, 1949).

"Mr. Crum was one of the initiating sponsors of the Independent Citizens Committee of the Arts, Sciences and Professions (Daily Worker of December 24, 1944, p. 14); and a member of the board of directors of the organization (letterhead of November 28, 1946). The Independent Citizens Committee * * * was cited as a Communist-front organization by the Committee on Un-American Activities (report of April 1, 1951).

"The spring catalog (1947) of the California Labor School lists Mr. Crum as one of the sponsors of that school; he is identified as president, San Francisco Chapter, National Lawyers Guild. The Yearbook of the school (1949, pp. 6 and 35) name him as a member of the board of directors and a sponsor of the school. Biographical notes are also given in the same source. The California Labor School was cited as subversive and Communist by the Attorney General (press release of June 1, 1948; included on consolidated list of April 1, 1954).

"An invitation to attend a testimonial dinner in New York City, October 12, 1947, issued by the American Slav Congress, as well as the program of that dinner, contain the name of Bartley C. Crum in a list of sponsors of the dinner. The American Slav Congress has been cited as subversive and Communist (press releases of the Attorney General dated June 1 and September 21, 1948; also consolidated list released April 1, 1954); the Committee on Un-American Activities cited the Congress as 'a Moscow-inspired and directed federation of Communist-dominated organizations seeking by methods of propaganda and pressure to subvert the 10 million people in this country of Slavic birth or descent' (report dated June 28, 1949).

"Mr. Crum signed a statement of the National Federation for Constitutional Liberties, hailing the War Department's order concerning commissions for Communists (Daily Worker, March 18, 1945, p. 2); Mr. Crum was identified as a lawyer from San Francisco, Calif. The National Federation for Constitutional Liberties has been cited by the Attorney General as an organization 'by which Communists attempt to create sympathizers and supporters of their program'; and as subversive and Communist. (Congressional Record, vol. 88, pt. 6, p. 7440; and press releases of December 4, 1947, and September 21, 1948; also included on consolidated list of April 1, 1954.) The special committee cited the National Federation for Constitutional Liberties as 'one of the viciously subversive organizations of the Communist Party' (report of March 29, 1944; also cited in reports of June 25, 1942, and January 2, 1943); the Committee on Un-American Activities also cited the organization as having been 'spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law' (report 1115 of September 2, 1947).

"The Daily People's World of May 10, 1946 (p. 5), announced that Mr. Crum (identified as a San Francisco attorney) would speak at the American Russian Institute's presentation of Russian author, Konstantin Simonov, in San Francisco, May 18; he also spoke at a meeting of the American Russian Institute as shown in the Daily Worker of June 3, 1948 (p. 2), in which source he was identified as publisher of PM, a New York daily newspaper. The American Russian Institute was cited as Communist by the Attorney General (press release of April 27, 1949; included on consolidated list of organizations released April 1, 1954).

"The program of a dinner held on the first anniversary of the American Youth for Democracy, October 16, 1944, Bartley C. Crum is shown as a sponsor of the dinner committee. The American Youth for Democracy was cited as the new name under which the Young Communist League operates and which also largely absorbed the American Youth Congress (special committee in report 1311 of March 29, 1944); the Attorney General cited it as Communist (press releases of December 4, 1947, and September 21, 1948; consolidated list of April 1, 1954).

"Behind the Silken Curtain, written by Mr. Crum, was recommended for reading by Youth magazine (July-August 1947 issue), a bimonthly publication of the

American Youth for Democracy; the same book was favorably reviewed in the June 24, 1947, issue of New Masses (p. 12); it was a selection of the Book Find Club, according to the New York Times of September 14, 1947 (book review section, p. 19); it was also favorably reviewed by Albert Kahn in the Worker (Sunday edition of the Daily Worker), for June 15, 1947 (p. 11M).

"New Masses has been cited by the Attorney General as a Communist periodical (Congressional Record, vol. 88, pt. 6, p. 7447); and by the special committee as 'a nationally circulated weekly journal of the Communist Party' (report of March 29, 1944). The Daily Worker is the chief journalistic mouthpiece of the Communist Party (report of March 29, 1944).

"Joseph Starobin, in his column, Around the Globe, which appeared in the Daily Worker of May 4, 1948 (p. 8), had the following to say concerning Bartley Crum, at the time the new PM appeared on newsstands: 'Take Bartley Crum, for example, whose unquestionably progressive career has a dialectic all its own: A Willkie Republican leader who championed the reelection of FDR 4 years ago; a successful lawyer, of Catholic faith, I believe, with a record of sincere work in organizations which the Attorney General insists are subversive; a leader of the Progressive Citizens of America, who declined to come out for Henry Wallace, and yet, is said to feel very warmly toward Wallace and the program for which he stands; a political figure * * * he rejected a job in the Civil Aeronautics Board, but accepted membership in the investigation commission for Palestine; and came back with some conclusions which still plague the State Department and Truman, too. * * *'"

"OCTOBER 26, 1935.

"Subject: Morris L. Ernst, national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"In testimony of Walter S. Steele before the special Committee on Un-American Activities, August 15, 1938, Morris Ernst was named as a member of the board of the American Fund for Public Service (public hearings, p. 388). The following issues of New Masses named Morris L. Ernst as treasurer of the American Fund for Public Service, November 1930 (p. 19), November 1931 (p. 31), and January 2, 1934 (p. 2). He was named as treasurer and a member of the board of directors of the American Fund for Public Service on a letterhead (photostat dated September 8, 1930).

"The American Fund for Public Service (Garland Fund) was 'established in 1922 * * * it was a major source for the financing of Communist Party enterprises' such as the Daily Worker and New Masses, official Communist publications, Federated Press, Russian Reconstruction Farms, and International Labor Defense. William Z. Foster, present chairman, Communist Party, and Scott Nearing, a leading writer for the party, served on the board of directors of the fund (special Committee on Un-American Activities, report of March 29, 1944, pp. 75 and 76).

"A letterhead of the American League for Peace and Democracy (a photostat dated April 6, 1939) carried the name of Morris L. Ernst as a member of the lawyer's committee of the league. The American League for Peace and Democracy was cited as subversive and Communist by the United States Attorney General in letters furnished the Loyalty Review Board and released to the press by the United States Civil Service Commission, June 1 and September 21, 1948; redesignated April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list of organizations previously designated. It was established in the United States in 1937 as successor to the American League Against War and Fascism 'in an effort to create public sentiment on behalf of a foreign policy adapted to the interests of the Soviet Union.' (Attorney General of the United States, Congressional Record, vol. 88, pt. 6, p. 7442.) The Special Committee on Un-American Activities cited the league as 'the largest of the Communist-front movements in the United States' (report of January 3, 1939).

"The Daily Worker of February 19, 1937 (p. 4), reported that Morris Ernst spoke at a meeting of the American Youth Congress in Washington, D.C. The American Youth Congress was cited as subversive and Communist by the United

States Attorney General (press releases of December 4, 1947 and September 21, 1948; redesignated April 27, 1953 and included on the April 1, 1954 consolidated list). The Attorney General cited the organization as 'originated in 1934 and has been controlled by Communist and manipulated by them to influence the thought of American youth' (Congressional Record, vol. 88, pt. 6, p. 7444). The Special Committee on Un-American Activities cited the American Youth Congress as 'one of the principal fronts of the Communist Party' (report of June 25, 1942, p. 16).

"Mr. Ernst spoke at a meeting of the League of American Writers in New York City, as was revealed by the Daily Worker of December 5, 1936 (p. 5). He spoke for the League for Mutual Aid on 'Dethroning the Supreme Court,' February 1, 1937, as shown in New Masses of January 26, 1937 (p. 37).

"The League of American Writers was cited as subversive and Communist by the Attorney General (press releases of June 1 and September 21, 1948) and was redesignated pursuant to Executive Order 10450, April 27, 1953; and included on the April 1, 1954, consolidated list of organizations previously designated. The League of American Writers previously had been cited as a Communist front by the Attorney General and by the special committee. (Congressional Record, vol. 88, pt. 6, p. 7445; and reports of January 3, 1940, June 25, 1942, and March 29, 1944, respectively). The special committee cited the League for Mutual Aid as a Communist enterprise (report of March 29, 1944, p. 76).

"Morris L. Ernst was named on a letterhead of the Medical Bureau and North American Committee to Aid Spanish Democracy, dated July 6, 1938, as a member of the Lawyers' Committee of that organization. 'In 1937-38, the Communist Party threw itself wholeheartedly into the campaign for the support of the Spanish Loyalist cause, recruiting men and organizing multifarious so-called relief organizations' such as the Medical Bureau and North American Committee to Aid Spanish Democracy (report of the special committee dated March 29, 1944, p. 82).

"Morris L. Ernst, identified as treasurer, American Fund for Public Service, was shown as a stockholder of New Masses on a photostatic copy of the statement of ownership of that publication, dated October 1, 1930. New Masses was cited as a 'Communist periodical' by the Attorney General (Congressional Record, vol. 88, pt. 6, p. 7448) and as the 'nationally circulated weekly journal of the Communist Party' by the special committee (report of March 29, 1944, pp. 48 and 75).

"The Nonpartisan Committee for the Reelection of Vito Marcantonio was cited as a Communist front by the special committee in the report of March 29, 1944 (p. 122). Mr. Ernst was chairman of the Nonpartisan Committee for the Reelection of Vito Marcantonio, as was shown on a letterhead of the organization dated October 3, 1936.

"A newsletter of the National Lawyers Guild, dated July 1937 (p. 2), listed Mr. Ernst, of New York City, as chairman of the guild's committee on the relation of government to business. The Daily Worker of February 10, 1939 (p. 2), reported that he spoke at a meeting of the National Lawyers Guild; a letterhead of the guild, dated May 28, 1940, named Mr. Ernst as director ex officio of that group; a membership list (1939) of the guild, on file with this committee, contains the name of Morris L. Ernst, 285 Madison Avenue, New York City.

"On September 17, 1950, the Committee on Un-American Activities released a report on the National Lawyers Guild in which it was cited as a Communist front and the 'foremost legal bulwark of the Communist Party, its front organizations, and controlled unions.' An earlier report of the special committee (report of March 29, 1944, p. 149) cited the guild as a Communist front.

"An editorial in the Daily Worker of December 10, 1947 (p. 9), criticized Morris Ernst for his proposed legislation to register front organizations. Morris L. Ernst, of New York City, testified voluntarily before the Committee on Un-American Activities, February 11, 1948, regarding legislation before the committee which would seek to curb or outlaw the Communist Party. He stated, in part as follows:

"Mr. KERSTEN. Would you say we would have to have the freedom of expression on the parts of teachers in our schools, professors in our universities, the freedom of expression to the extent that the president of this particular institution could, if he wants to, permit his teachers to teach to the students, for example, the tenets of communism?

"Mr. ERNST. Well, may I state my position on that? I have got to cut down underneath it a bit.

* * * * *

"I think the Communists or the Klan have a right to elect the Government of the United States. Not having elected the Government of the United States, I take it to be the mandate of the people to the officials elected to make sure that neither Klan nor Communist policy is infiltrated or injected into the Government.

"Under those circumstances, it seems to me I would say that no klansman should be in the Bureau of Education of the United States Government even though on an open debate and an election with night shirts off, they may elect the Government, that's what we are gambling on.

"Now, I have got faith that they are not going to elect the Government, if they take their shirts off.

"Mr. KERSTEN. The question is, however, do you think a university president has the right or teachers have the right in that university, if they wish to exercise it, to teach the students the tenets of communism?

* * * * *

"Mr. ERNST. I should say that if it is an avowed Communist or a teacher said this is what communism is, I would like to see that taught in the schools without nightshirts, yes. I would like to see it taught.

"Now that doesn't mean that I am at all in favor of a school being sneaked upon, as our schools were in New York by Communists sneaking their perfidious stuff underground. I am not afraid of the thesis of communism aboveboard, not at all. Americans will beat it down at every point. We are not afraid of them at all, haven't got the least fear of that crowd, and they are not all crackpots. They are fanatics, maybe, but not crackpots, but I have great fear of any secret group for this reason.

"Up to now the problem of America has been the protection of minorities against majorities, oppression by majority or minority. From now on in, I suggest our problem is reversed, because a tightly regimented controlled minority in a labor union, in any place in life with the complexities of modern life can oppress a majority, and that is what the Communists are doing to the decent part of the American labor movement today' (public hearings, pp. 201, 202).

"Reference to Mr. Ernst was made by Maj. Gen. Charles Willoughby, a witness during public hearings before this committee, August 22, 1951, as follows:

"Without going into details which are in this file, the International Red Aid, Soviet-Comintern sponsored, becomes the International Labor Defense, and the American Labor Defense becomes the Civil Rights Congress. And, incidentally, again Weiss, as an organizer, develops other agencies, such as the American Committee for the Defense of the Foreign Born, and several other organizations, all of which have been analyzed and commented on adversely by Mr. Morris Ernst, a reputable New York lawyer, who resented, apparently, ever having been mixed up with this group' (American Aspects of Richard Sorge Spy Case, p. 118)."

"FEBRUARY 13, 1956.

"Subject: Z. Alexander Looby, national board of directors, national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"A 1939 membership list of the National Lawyers Guild, on file with this committee, contains the name of Alexander Looby, 419 Fourth Avenue, Nashville, Tenn.

"The special Committee on Un-American Activities, in its report on March 29, 1944 (p. 149), cited the National Lawyers' Guild as a Communist-front organization. The Committee on Un-American Activities, in its report on the National Lawyers Guild, September 17, 1950, cited the organization as a Communist front which 'is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions,' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents.'

"The Daily People's World of April 25, 1948 (p. 11), reported that Alexander Looby, attorney, Nashville, Tenn., had spoken before the Southern Negro Youth Congress. The Worker of May 16, 1948 (p. 2), disclosed that Z. Alexander Looby, attorney, Nashville, Tenn., had spoken before the same organization.

"The Attorney General of the United States cited the Southern Negro Youth Congress as subversive and among the affiliates and committees of the Communist Party, U.S.A., which seeks to alter the form of government of the United States by unconstitutional means (letter to Loyalty Review Board, released December 4, 1947). The Attorney General redesignated the group April 27, 1953, pursuant to Executive Order No. 10450, and included it on the April 1, 1954, consolidated list of organizations previously designated. The special Committee on Un-American Activities, in its report of January 3, 1940 (p. 9), cited the Southern Negro Youth Congress as a Communist-front organization. The Committee on Un-American Activities, in its report of April 17, 1947 (p. 14), cited the organization as 'surreptitiously controlled' by the Young Communist League."

"OCTOBER 25, 1955.

"Subject: Paul J. Kern, national legal committee, NAAOP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"Paul J. Kern was attorney for Communist Party leaders such as Benjamin J. Davis, as reported in the Daily Worker of August 5, 1949 (p. 1), and October 26, 1949 (p. 3); he was a sponsor of the national nonpartisan committee to defend the rights of the 12 Communist leaders, as shown on a letterhead dated September 9, 1949, and the Daily Worker of July 18, 1949 (p. 2). He signed a statement of the Committee for Political Advocacy, defending the 12 Communist Party leaders (Narodna Volya for March 25, 1949, p. 4; and the Daily Worker of February 28, 1949, p. 9), in which sources he was identified as former president of the municipal civil service commission, and a letterhead of January 7, 1949. The Daily Worker of May 6, 1949 (p. 2), reported that Paul J. Kern, chairman of the Committee for Free Political Advocacy, condemned the trial of the Communist leaders.

"Identified as being from New York City, Paul J. Kern was one of those who signed a statement addressed to the President of the United States defending the Communist Party (Daily Worker of March 5, 1941, p. 2); he was retained as special counsel in the Communist Party's fight to remain on the ballot in New York State (Daily Worker of September 23, 1946, p. 5); he also signed a statement in 1947 protesting the proposal to outlaw the Communist Party (Daily Worker of March 12, 1947, p. 3, in which source he was identified as a former New York City civil service commissioner); he was a member of the nonpartisan committee for the reelection of Congressman Vito Marcantonio, as shown on their letterhead of October 3, 1936; he condemned the purge of Communists from the film industry (The Worker of November 30, 1947, p. 10—southern edition—in which source he was identified as former New York City civil service commissioner).

"Mr. Kern was named as one of more than 200 outstanding professors, clergymen, lawyers, writers, professional people, and others (who) have addressed a petition to United States Attorney General J. Howard McGrath, urging him to withdraw contempt proceedings. The contempt proceedings involved 17 men and women who invoked their constitutional right not to testify (before a congressional committee) on grounds of self-incrimination. From the Daily Worker, of February 19, 1951, p. 2). The Congressional Record, volume 94, part 5, page 5841, named Paul J. Kern, New York City, as one of those who signed a statement opposing the Mundt anti-Communist bill. He signed a statement to the mayor of New York City and the city council, on behalf of Simon Gerson, a Communist (Daily Worker, of February 16, 1948, p. 16), and supported the Citizens Committee To Defend Representative Government which organization urged the seating of Simon Gerson (from an advertisement which appeared in the New York Times on February 19, 1948, p. 18, in which he was identified as former president of the municipal civil service commission).

"In 1941 an investigation was made of the city council into the affairs and conduct of the municipal civil service commission of the city of New York and Hon. Paul J. Kern, its president, pursuant to section 43 of the charter of the city of New York.

"Paul J. Kern as one of the sponsors of the Consumers National Federation, as shown in the pamphlet, *The People Versus H C L.*, dated December 11-12, 1937 (p. 2). The Consumers National Federation has been cited as a Communist-front organization by the Special Committee on Un-American Activities in a report dated March 29, 1944.

"The *Daily Worker*, of March 18, 1937 (p. 5), named Paul J. Kern as vice president of the National Lawyers Guild; the article concerned Dr. Kern's attack on the United States Supreme Court; he was vice president of the guild in 1937, as shown by the organization's news letter of July 1937 (p. 2), in which source he was identified as being from New York; he was named in the same source as chairman of the guild's committee on publications and public relations; he spoke before the guild, as reported in the *Daily Worker*, of February 25, 1939 (p. 1), as having been president of the New York chapter of the guild for 2 years and as having denied that he had resigned from the guild. A membership list of the guild dated 1939, contains the name of one Paul Kern whose address was shown as 1451 Municipal Building, New York City; a letterhead of the same organization, dated May 28, 1940, named him as director ex officio. Paul J. Kern participated in a discussion entitled 'Status of Civil Liberties' at the fifth annual convention of the National Lawyers Guild, Detroit, Mich., May 29-June 1, 1941, as shown by the convention program printed in *Convention News*, May 1941 (p. 2). This same source showed him as a member of the convention resolutions committee.

"In 1944 the Special Committee on Un-American Activities cited the National Lawyers Guild as a Communist-front organization (report dated March 29, 1944); in 1950 the Committee on Un-American Activities released a report on the guild, in which it was called "the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions" (report dated September 17, 1950).

"Paul Kern spoke before the International Labor Defense during its New York State conference (*Labor Defender*, November 1937, p. 3); he was a sponsor of the organization's summer milk drive in 1939 (*Equal Justice* for June 1939, p. 7). Mr. Kern was a member of the national committee of the International Juridical Association, as shown in the leaflet, 'What is the I.J.A.?' The Attorney General of the United States cited the International Labor Defense as subversive and Communist in letters to the Loyalty Review Board, released June 1 and September 21, 1948. The organization was redesignated by the Attorney General April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list of organizations previously designated. The organization was cited previously by the Attorney General as the legal arm of the Communist party (*Congressional Record*, vol. 88, pt. 6, p. 7446). The Special Committee on Un-American Activities, in its report of January 3, 1939 (pp. 75-78), cited the International Labor Defense as the legal defense arm of the Communist Party of the United States. The Committee on Un-American Activities, in its report of September 2, 1947 (pp. 1 and 2), cited the International Labor Defense as part of an international network or organizations for the defense of Communist lawbreakers. The International Juridical Association was cited as a Communist front and an offshoot of the International Labor Defense (special committee's report of March 29, 1944); the Committee on Un-American Activities cited the International Juridical Association as having actively defended Communists and consistently followed the Communist Party line (report of September 17, 1950).

"In March 1937 a group of well-known Communists and Communist Collaborators published an open letter bearing the title given as 'Open Letter to American Liberals in Defense of the Moscow Purge Trials' (special Committee on Un-American Activities report of June 25, 1942); Paul J. Kern signed the open letter as shown in the *Daily Worker* of February 9, 1937 (p. 2), and *Soviet Russia Today* for March 1937 (pp. 14-15).

"An undated letterhead of the New York Tom Mooney committee listed Paul J. Kern as one of the sponsors of that organization; he was one of those who lectured at the School for Democracy, as shown in *New Masses* for May 23, 1942 (p. 31); the catalog and program of the school, dated January 1942, listed him as a guest lecturer on legislation, lobbying, and the people's program. He was identified as president of the civil service commission, New York City.

"The special committee on Un-American Activities cited the New York Tom Mooney committee as a Communist-front organization. 'For many years the Communist Party organized widespread agitation around the Mooney case, and drew

its members and followers into the agitation' (Report No. 1311 of March 29, 1944, p. 154).

"In 1941, the Communists established a school in New York City which was known as the School for Democracy (now merged with the Workers School into the Jefferson School of Social Science). The school was 'established by Communist teachers ousted from the public school system of New York City.' (Special Committee on Un-American Activities in Report No. 1311.)

"A handbill entitled 'Protest Brutal Nazi Persecutions' announced a mass rally of the American Labor Party and named Paul J. Kern as one of the sponsors of the rally. The special committee found that 'for years, the Communists have put forth the greatest efforts to capture the entire American Labor Party throughout New York State. They succeeded in capturing the Manhattan and Brooklyn sections of the American Labor Party but outside of New York City, they have been unable to win control' (Report No. 1311 of March 29, 1944).

"Mr. Kern signed the call of the American Youth Congress to their New York model legislature of youth, New York City, January 28-30, 1938, as shown on the leaflet, Calling Young People of New York, in which source he was identified as chairman of the New York Lawyers Guild. He spoke in New York City before the Workers Alliance, according to the Daily Worker of June 18, 1937 (p. 5).

"The Attorney General cited the American Youth Congress as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948. The organization was redesignated April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list. The Attorney General cited the American Youth Congress previously as controlled by Communists and manipulated by them to influence the thought of American youth (Congressional Record, vol. 88, pt. 6, p. 7444). The Special Committee on Un-American Activities, in its report of June 25, 1942 (p. 16), cited the organization as 'one of the principal fronts of the Communist Party' and 'prominently identified with the White House picket line.'

"The Attorney General cited the Workers Alliance as subversive and Communist in letters released December 4, 1947, and September 21, 1948. The organization was redesignated April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list. The organization was cited previously by the Attorney General as a 'Communist penetrated organization,' (Congressional Record, vol. 88, pt. 6, p. 7442). The Special Committee on Un-American Activities, in its report of January 3, 1939 (pp. 72-74), cited the organization as follows: 'Among the successes in its "front movements, the Communists point to the Workers Alliance of America"'. It was created in 1930 and organized 'in practically every relief project in the country.' It was 'apparently patterned after the "Unemployed Councils of St. Petersburg," Russia set up in 1906 as a part of the Communist front there. As the councils in Russia staged sit-down strikes, so also did the Alliance stage sit-down strikes in various State legislatures and relief bureaus in our country.'

"Mr. Kern was attorney for the International Workers Order as reported in the Daily Worker of September 27, 1950 (p. 5), which source identified him as from New York.

"The Attorney General cited the International Workers Order as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953 and April 1, 1954. The organization was cited previously by the Attorney General as 'one of the strongest Communist organizations' (Congressional Record, vol. 88, pt. 6, p. 7447). The Special Committee on Un-American Activities, in its report of January 3, 1939 (p. 79), cited the International Workers Order as 'one of the most effective and closely knitted organizations among the Communist-front movements.' The Committee on Un-American Activities, in its report on the American Slav Congress, April 20, 1950 (pp. 82-84), cited the International Workers Order as 'one of the strongest Communist organizations.'

"The Call to a Conference on Constitutional Liberties in America, June 7, 1940 (p. 4), named Paul J. Kern as one of the sponsors of that conference, cited by the special committee as 'an important part of the solar system of the Communist Party's front organization.' (Report, March 29, 1944, p. 102.) The Attorney General cited the conference as the one which resulted in the formation of the National Federation for Constitutional Liberties, 'part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program.'

"Mr. Kern was chairman of a meeting in New York City of the North American Committee To Aid Spanish Democracy (Daily Worker, June 5, 1937, p. 2); he spoke before the group in February 1938, as shown in the Daily Worker of February 28 of that year (p. 8); a letterhead of the medical bureau and North American Committee To Aid Spanish Democracy, dated July 6, 1938, named him as a member of the lawyers committee of the organization; a letterhead of the group, dated January 30, 1939, also named him as chairman of the lawyers committee of the organization. Mr. Kern was one of the sponsors of the Medical Bureau, American Friends of Spanish Democracy, as shown in the Daily Worker of March 5, 1937 (p. 2); he signed a petition of the organization to lift the arms embargo against Loyalist Spain (Daily Worker of Apr. 8, 1938, p. 4).

"In a booklet prepared and published by the Coordinating Committee to Lift The (Spanish) Embargo, and entitled 'These Americans Say' (p. 8), Mr. Kern was named as a representative individual who advocated lifting the arms embargo; he spoke in New York City before the Morningside branch, Friends of the Abraham Lincoln Brigade (Daily Worker of June 10, 1937, p. 3); he spoke before the brigade in September 1937, as shown in the Daily Worker of September 20, 1937 (p. 2); he endorsed the drive of the same organization to bring veterans back to America, as reported in the Daily Worker of June 7, 1938 (p. 2), and a circular entitled 'And Tell the Folks That I'll Be Home If.'

"Mr. Kern sponsored the Spanish Refugee Relief Campaign, according to a letterhead of that organization dated September 10, 1940; and was chairman of the Lawyers Committee on American Relations With Spain, a participating organization, as shown in the pamphlet, Children in Concentration Camps. A prospectus and review of the lawyers committee also named him as chairman of that group.

"The North American Committee To Aid Spanish Democracy, American Friends of Spanish Democracy, the Coordinating Committee To Lift the Embargo, the Abraham Lincoln Brigade, and the Lawyers Committee on American Relations With Spain were all set up during 1937 and 1938, when it was the policy of the Communist Party to support the Spanish War. (Rept. No. 1311 of the special Committee on Un-American Activities dated Mar. 20, 1944). The North American Committee and the Abraham Lincoln Brigade were also cited as Communist organizations by the Attorney General (press release of April 27, 1949, redesignated April 27, 1953, and included on the April 1, 1954, consolidated list). The Spanish Refugee Relief Campaign was cited by the Special Committee as a Communist front organization (report dated January 3, 1940).

"The call to a Bill of Rights Conference, New York City, July 16 and 17, 1949, named Paul J. Kern as an initiating sponsor and acting chairman of the conference; he was identified in this source as former president of the Civil Service Commission, New York City. Elizabeth Gurley Flynn, member of the national committee of the Communist Party, in writing about the conference for her column in the Daily Worker (July 25, 1949, p. 8), stated that one of the highlights of the conference was the fight for the 12 defendants in the current Communist cases. She reported that seven of the defendants were present and participated actively. The New York Times (July 18, 1949, p. 13) reported that 'the 20 resolutions adopted unanimously by the 2-day conference registered opposition to the conspiracy trial of the 11 Communist leaders, the presidential loyalty order, deportation for political belief, among others. The conference also called for an end to the investigation by the Federal Bureau of Investigation into political, rather than criminal, activities.'

"A short personal statement by Paul J. Kern against anti-Communist legislation appeared in New Masses for March 25, 1947 (p. 11); he was one of the sponsors of the National Committee to Defeat the Mundt Bill, as revealed by a press release of the group dated June 15, 1949 (p. 2), in which source he was identified as being from New York City; the organization's pamphlet, 'Hey, Brother, there's a law against you' (p. 2) and a photostatic copy of a letterhead dated May 5, 1950 also named Mr. Kern as one of the sponsors of that group which this committee cited as 'a registered lobbying organization which has carried out the objectives of the Communist Party in its fight against antisubversive legislation' (Rept. No. 3248 of Jan. 2, 1951, originally released Dec. 7, 1950).

"The Daily Worker of February 2, 1938 (p. 5), reported that Paul J. Kern had spoken before the League of American Writers. He signed a statement of the American League Against War and Fascism against Franco spies, as shown in the Daily Worker of May 11, 1937 (p. 1); he was one of the sponsors of a joint meeting of the American League Against War and Fascism and American Friends of the Chinese People (Daily Worker, Sept. 24, 1937, p. 6); he was

chairman of the Lawyers' Committee, American League for Peace and Democracy, as shown on their letterhead dated April 6, 1939.

"The League of American Writers was cited as a Communist-front organization by the special committee in reports of January 3, 1940; June 25, 1942; and March 29, 1944; it was cited as a Communist front by the Attorney General, and subsequently as subversive and Communist (Congressional Record, vol. 88, pt. 6, p. 7445; and press releases of June 1 and Sept. 21, 1948, redesignated Apr. 27, 1953, and included on Apr. 1, 1954, consolidated lists).

"The American League Against War and Fascism, predecessor of the American League for Peace and Democracy, was cited as a Communist-front organization (special committee in reports of Jan. 3, 1939; Jan. 3, 1940; June 25, 1942; and Mar. 29, 1944; and by the Attorney General; Congressional Record, vol. 88, pt. 6, p. 7442; and press releases of Dec. 4, 1947, and Sept. 21, 1948, redesignated Apr. 27, 1953, and included on Apr. 1, 1954, list).

"Identified as president municipal civil service commission, New York City, Paul J. Kern was one of those who signed a petition of the American Committee for Democracy and Intellectual Freedom, as shown on a mimeographed sheet attached to a letterhead of the group dated January 17, 1940. The American Committee for Democracy and Intellectual Freedom was cited as a Communist-front organization which defended Communist teachers (special committee in reports of June 24, 1942; and Mar. 29, 1944).

"Mr. Kern was a member of the advisory board of Film Audiences for Democracy, according to Film Survey of June 1939 (p. 4). The Special Committee on Un-American Activities cited Film Audiences for Democracy as a Communist-front organization (report of Mar. 29, 1944). He was a sponsor of the Greater New York Emergency Conference for Inalienable Rights, as shown on the program of the conference which was held February 12, 1940. The special committee cited the New York organization as a Communist front (report of Mar. 29, 1944).

"A program of the American Continental Congress for World Peace, held in Mexico City, September 5-10, 1940, named Paul J. Kern as one of the sponsors of that congress, cited by this committee as 'another phase in the Communist peace campaign aimed at consolidating anti-American forces throughout the Western Hemisphere' (report 378 of Apr. 25, 1951)."

"OCTOBER 25, 1955.

"Subject: Karl N. Llewellyn, nation: legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"Prof. K. N. Llewellyn, Columbia Law School, spoke at a conference of the Greater New York Emergency Conference on Inalienable Rights as shown by the program, February 12, 1940.

"The Special Committee on Un-American Activities, in its report of March 29, 1944 (pp. 96 and 129), cited the Greater New York Emergency Conference on Inalienable Rights as a Communist-front which was succeeded by the National Federation for Constitutional Liberties. The Committee on Un-American Activities, in its report of September 2, 1947 (p. 3), cited the Greater New York Emergency Conference on Inalienable Rights as among a 'maze of organizations' which were 'spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law.'

"A letterhead of the Non-Partisan Committee for the Re-election of Vito Marcantonio, dated October 3, 1938, listed Karl N. Llewellyn as vice chairman of the organization.

"The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 122), cited the Non-Partisan Committee for the re-election of Vito Marcantonio as a Communist-front organization.

"An updated letterhead of the International Juridical Association listed Prof. Karl Llewellyn, New York, as a member of the National Committee.

"The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 140), cited the International Juridical Association as 'a Communist front and an offshoot of the International Labor Defense.' The Committee on

Un-American Activities, in its report on the National Lawyers Guild, September 17, 1950 (p. 12), cited the International Juridical Association as an organization which 'actively defended Communists and consistently followed the Communist Party line.'"

"OCTOBER 23, 1935.

"Subject: Shad Poller (Isador Poller), national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"Who's Who in America (col. 25, 1948-49, p. 1971) shows that Justine Wise Poller married Shad Poller in 1937. Who's Who in American Jewry (vol. 3, 1938-39, p. 318) shows that Justine Wise Poller is the daughter of Rabbi Stephen S. Wise and that she married Isadore Poller, March 26, 1937, New York City. It is noted further that Max Lowenthal, a witness during public hearings before this committee, September 15, 1950, when asked if he were acquainted with Shad Poller, stated: 'Yes, he was Rabbi Wise's son-in-law.' (Communism in the United States Government, pt. 2, p. 2934.) Therefore, this report includes references from the public records, files and publications of this committee which appear under the name, Shad Poller, and references which appear under the name, Isadore Poller.

"Shad Poller was named in the election campaign letter of the Washington, D.C., chapter of the National Lawyers Guild, dated May 18, 1940, as a candidate for delegate to the national convention of the Guild. Convention News for May 1941 (p. 3) listed Shad Poller, New York City, as a member of the nominations committee of the National Lawyers Guild Fifth Annual Convention at the Book-Cadillac Hotel, Detroit, Mich., May 29-June 1, 1941. Shad Poller is shown as the writer of an article in the Lawyers Guild Review, vol. VI, pp. 490-491.

"The National Lawyers Guild was cited as a Communist-front organization by the Special Committee on Un-American Activities (Report 1311, March 29, 1944, p. 149), and was the subject of a separate report by the Committee on Un-American Activities, September 17, 1950, in which it was cited as a Communist front that 'is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents.'

"A letterhead of the International Juridical Association, dated May 18, 1942, carries the name of Shad Poller, New York, as a member of the organization's national committee. The Special Committee on Un-American Activities cited the International Juridical Association as 'a Communist front and an offshoot of the International Labor Defense' (report of March 29, 1944, p. 149); the Committee on Un-American Activities cited the International Juridical Association as an organization which 'actively defended Communists and consistently followed the Communist Party line' (report 3123, September 21, 1950, p. 12).

"A 1941 membership list of the Washington Book Shop, on file with this committee, contains the name of Shad Poller, 3610 Idaho Avenue NW., Washington, D.C. 'The Washington Cooperative Book Shop, under the name "The Book Shop Association," was incorporated in the District of Columbia in 1938. * * * It maintains a bookshop and art gallery at 916 Seventeenth Street NW., Washington, D.C., where literature is sold and meetings and lectures held. Evidence of Communist penetration or control is reflected in the following: Among its stock the establishment has offered prominently for sale books and literature identified with the Communist Party and certain of its affiliates and front organizations.' (United States Attorney General, Congressional Record, vol. 88, pt. 6, p. 7447). The Attorney General also included the Book Shop on lists of subversive and Communist organizations furnished the Loyalty Review Board (press releases of December 4, 1947, and September 21, 1948) and redesignated it pursuant to Executive Order 10450 (memorandum of April 29, 1953, released by the Department of Justice); and included on the April 1, 1954, consolidated list of organizations previously designated. The Special Committee on Un-American Activities also cited the Washington Bookshop as a Communist front (report of March 29, 1944, p. 150).

"The newsletter of the National Lawyers Guild for July 1937 (p. 2) named Isadore Poller, New York City, as chairman of the guild's committee on constitutional and judicial review. A leaflet, What is the IJA?, contains the name

of Isadore Poller as a member of the National Committee of the International Juridical Association. An undated letterhead of the group listed him as executive director, and this committee's report on the National Lawyers Guild, September 17, 1950 (p. 13), reported that Isadore Poller was executive director of the International Juridical Association at 'the time of its inception.' See citation on page 1.

"The Daily Worker of April 8, 1938 (p. 4), reported that Isadore Poller signed a petition, sponsored by the American Friends of Spanish Democracy, to lift the arms embargo. 'In 1937-38, the Communist Party threw itself wholeheartedly into the campaign for the support of the Spanish Loyalist cause, recruiting men and organizing multifarious so-called relief organizations * * * such as * * * American Friends of Spanish Democracy'" (report of the special committee dated March 29, 1944, p. 82).

"The booklet, *These Americans Say* (p. 8), compiled and published by the Coordinating Committee To Lift the Embargo, named Isadore Poller among the representative individuals who advocated lifting the Spanish embargo. The Coordinating Committee To Lift the (Spanish) Embargo was cited by the Special Committee as one of a number of front organizations, set up during the Spanish Civil War by the Communist Party in the United States and through which the party carried on a great deal of agitation (report of March 29, 1944, pp. 137 and 138)."

"OCTOBER 25, 1955.

"Subject: Jawn Sandifer, national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"The Daily Worker of April 10, 1951 (p. 3) reported that Jawn A. Sandifer was a speaker for the National Lawyers Guild. The October 7, 1952, issue of the Daily Worker (p. 3), reported that Jawn L. Sandifer, New York, was to lead workshop discussions at the national conference of the National Lawyers Guild on civil rights legislation, and discrimination to be held at the Park Sheraton Hotel, New York City, on October 10, 11, and 12, 1952.

"The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 149), cited the National Lawyers Guild as a Communist-front organization. The Committee on Un-American Activities, in its report on the National Lawyers Guild, September 17, 1950, cited the organization as a Communist front, which 'is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents.'"

"OCTOBER 25, 1955.

"Subject: Sidney R. Redmond, national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"S. R. Redmond signed the open letter of the National Federation for Constitutional Liberties denouncing the Attorney General's attack on the Communist Party and decision in the Harry Bridges case as shown by the Daily Worker of July 19, 1942 (p. 4), and the booklet, *600 Prominent Americans* (p. 27). Sidney R. Redmond, editor, National Bar Journal, St. Louis, Mo., signed a statement of the National Federation for Constitutional Liberties supporting the War Department's order on granting commissions 'to members of the Armed Forces who have been members of or sympathetic to the views of the Communist Party' according to an undated leaflet, 'the only sound policy for a democracy' and the Daily Worker, March 19, 1945 (p. 4).

"The Attorney General of the United States cited the National Federation for Constitutional Liberties as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948; redesignated April 27 1953, pursuant to Executive Order No. 10450, and included on the

April 1, 1954, consolidated list of organizations previously designated. The Attorney General cited the organization previously as 'part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program' (Congressional Record, vol. 88, pt. 6, p. 7446). The special Committee on Un-American Activities, in its report of March 29, 1944 (p. 50), cited the National Federation for Constitutional Liberties as 'one of the viciously subversive organizations of the Communist Party.' The Committee on Un-American Activities, in its report of September 2, 1947 (p. 3), cited the National Federation * * * among a 'maze of organizations' which were 'spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law.'

"Subject: George M. Johnson, national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"George M. Johnson, Washington, D.C., was a member of the executive board of the National Lawyers Guild as of 1949. (See the committee's report on the National Lawyers Guild, p. 18.)

"The special Committee on Un-American Activities, in its report of March 29, 1944 (p. 149), cited the National Lawyers' Guild as a Communist-front organization. The Committee on Un-American Activities, in its report on the National Lawyers' Guild, September 17, 1950, cited the organization as a Communist-front which 'is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents.'"

"OCTOBER 25, 1955.

"Subject: Edward P. Lovett, national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"A 1939 membership list of the National Lawyers Guild listed Edward P. Lovett, 615 F Street NW., Washington, D.C., as a member of that organization.

"The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 149), cited the National Lawyers' Guild as a Communist-front organization. The Committee on Un-American Activities, in its report on the National Lawyers' Guild, September 17, 1950, cited the organization as a Communist front which 'is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents.'"

"OCTOBER 25, 1955.

"Subject: Louis L. Redding, national legal committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"A 1939 membership list of the National Lawyers' Guild listed Louis Redding, 1002 French St., Wilmington, Del., as a member of the organization. Louis L. Redding, a member of the Delaware bar, was among the speakers at a panel session on Civil Rights and Liberties as part of the National Lawyers' Guild annual convention, February 20-23, 1953, New York City, according to the Daily Worker, February 20, 1953 (p. 6).

"The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 149), cited the National Lawyers' Guild as a Communist front organization. The Committee on Un-American Activities, in its report on the National Lawyers' Guild, September 17, 1950, cited the organization as a Communist front which 'is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents.'

"The official proceedings of the National Negro Congress, 1938 (pp. 5, 6, 41), listed Louis L. Redding, Delaware, as a member of the National Executive Council and a member of the presiding committee and general resolutions committee.

"The Attorney General cited the National Negro Congress as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The organization was cited previously by the Attorney General as a Communist front (Congressional Record, vol. 88, pt. 6, p. 7446). The Special Committee on Un-American Activities, in its report of January 3, 1939 (p. 81), cited the National Negro Congress as 'the Communist-front movement in the United States among Negroes.'"

"OCTOBER 25, 1955.

"Subject: Joseph B. Robinson, national health committee, NAAOP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"One Joseph B. Robinson signed the call for the National Emergency Conference, Washington, D.C., May 13 and 14, 1939.

"The special Committee on Un-American Activities, in its report of March 29, 1944 (p. 49), cited the National Emergency Conference as a Communist-front organization. The Committee on Un-American Activities, in its report of September 2, 1947 (p. 12), cited the National Emergency Conference as follows: 'It will be remembered that during the days of the infamous Soviet-Nazi pact, the Communists built protective organizations known as the National Emergency Conference, the National Emergency Conference for Democratic Rights, which culminated in the National Federation for Constitutional Liberties.'"

"OCTOBER 25, 1955.

"Subject: Dr. Edward L. Young, national health committee, NAAOP, 1954.

"The public records, files and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"Dr. Edward L. Young was an initial sponsor of the American Peace Crusade as shown by letterheads dated February 1951 and February 1953. He signed a petition of the American Peace Crusade calling on President Truman and Congress to seek a big-power act as reported by the Daily Worker of February 1, 1952 (p. 1), in which source he was identified with the Harvard University Medical School. The Daily Worker of February 1, 1951 (p. 2), listed Dr. Edward L. Young, Committee on Physicians for Improvement of Medical Care, Brookline, Mass., as a sponsor of the American Peace Crusade.

"The Committee on Un-American Activities, in its statement issued on the March of Treason, February 19, 1951, and report on the Communist peace offensive, April 1, 1951 (p. 51), cited the American Peace Crusade as an organization which 'the Communists established' as 'a new instrument for their peace offensive in the United States' and which was heralded by the Daily Worker 'with the usual bold headlines reserved for projects in line with the Communist objectives.' The Attorney General of the United States designated the American Peace Crusade January 22, 1954 pursuant to Executive Order No. 10450, and included it on the April 1, 1954 consolidated list of organizations previously designated.

"Dr. Young was a United States sponsor of the American Continental Congress for Peace as shown by an official leaflet published by the Congress.

"The Committee on Un-American Activities, in its report on the Communist peace offensive, April 1, 1951 (p. 21), cited the American Continental Congress for Peace as 'another phase in the Communist "peace" campaign, aimed at consolidating anti-American forces throughout the Western Hemisphere.'

"According to a statement attached to a press release of the Committee for Peaceful Alternatives to the Atlantic Pact, dated December 14, 1949 (p. 10), Dr. Edward L. Young, Committee of Physicians for Improvement of Medical Care, Brookline, Mass., signed a statement calling for international agreement to ban use of atomic weapons.

"The Committee for Peaceful Alternatives to the Atlantic Pact was cited by the Committee on Un-American Activities as an organization which was formed as a result of the Conference for Peaceful Alternatives to the Atlantic Pact and which was located, according to a letterhead of September 18, 1950, at 30 North Dearborn Street, Chicago, Ill.; and to further the cause of 'Communists in the United States' doing 'their part in the Moscow campaign.'

"A mimeographed petition, attached to a letterhead of the Spanish Refugee Appeal of the Joint Anti-Fascist Refugee Committee dated May 18, 1951, listed Dr. Edward L. Young, Brookline, Mass., as one who signed a petition to President Truman 'to bar military aid to or alliance with Fascist Spain.'

"The Attorney General cited the Joint Anti-Fascist Refugee Committee as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The special Committee on Un-American Activities, in its report of March 29, 1944 (p. 174), cited the Joint Anti-Fascist Refugee Committee as a Communist-front organization.

"Dr. Edward L. Young was shown as a member of the board of directors of the National Council of the Arts, Sciences, and Professions on a leaflet, Policy and Program Adopted by the National Convention, 1950, a letterhead dated July 28, 1950, and a letterhead dated December 7, 1952 (photostat). He was a sponsor of the Cultural and Scientific Conference for World Peace, New York City, March 25-27, 1949, as shown by the conference program (p. 13), the conference call, and the Daily Worker, February 21, 1949 (p. 9). As shown by the conference program (p. 10), he spoke at the conference, and according to Speaking of Peace, edited report of the conference (p. 49), Dr. Young introduced the discussion on psychiatric aspects of today's international crisis. He signed a statement supporting a rehearing of the case of the Communist leaders before the Supreme Court and protesting the Smith Act as shown by We Join Black's Dissent, a reprint of an article from the St. Louis Post-Dispatch, June 20, 1951, by the National Council of the Arts, Sciences, and Professions. The Daily Worker of February 28, 1949 (p. 2) reported that Dr. Young was a speaker for the National Council of the Arts, Sciences, and Professions. He signed a statement of the organization as shown by the Congressional Record, volume 85, part 7, page 9435. He signed a resolution against atomic weapons released by the National Council as shown by a mimeographed list of signers attached to a letterhead of July 28, 1950. He signed a peace appeal in a drive of the National and New York Councils of the Arts, * * *, as reported in the Daily Worker of May 16, 1952 (p. 2).

"The Committee on Un-American Activities, in its report of April 19, 1949 (p. 2), cited the National Council of the Arts, Sciences, and Professions as a Communist-front organization. In this report, Review of the Scientific and Cultural Conference for World Peace, the committee cited the conference as a Communist front which 'was actually a supermobilization of the inveterate wheelhorses and supporters of the Communist Party and its auxiliary organizations.'

"As shown by an undated leaflet, 'Prominent Americans Call for * * *' (received by this committee September 11, 1950), and the Daily Worker of Aug. 10, 1950 (p. 1), Dr. Edward L. Young signed the World Peace Appeal.

"The Committee on Un-American Activities, in its report on the Communist peace offensive, April 1, 1954 (p. 34), cited the World Peace Appeal as a petition campaign launched by the permanent committee of the World Peace Congress at its meeting in Stockholm, March 18-19, 1950; as having 'received the enthusiastic approval of every section of the international Communist hierarchy'; as having been lauded in the Communist press, putting 'every individual Communist on notice that he "has the duty to rise to this appeal"'; and as having received the official endorsement of the Supreme Soviet of the U.S.S.R., which

has been echoed by the governing bodies of every Communist satellite country, and by all Communist Parties throughout the world.

"The following is quoted from a 'Statement of Principles for the Defense of Democracy Against McCarthyism,' as reported by the Daily Worker of March 31, 1954 (p. 8):

"Minority opinion is being suppressed by such devices as blacklisting, dismissal from employment, and even jailing.

"Teachers, lawyers, doctors, writers, artists, actors, and other professionals should be free to practice their professions without discrimination because of their political beliefs or associations, whether they be Republican, Democrat, Socialist, or Communist."

"The Daily Worker article reported that 'the signers of the statement urge support for an eight-point program, including abolition of the Attorney General's list of "subversive organizations," reinstatement of teachers dismissed in recent inquiries, and amnesty for those in jail on charges of "conspiracy to teach and advocate" their political views.' Dr. Edward L. Young, Brookline, Mass., was named as a signer.

"The call to a bill of rights conference New York City, July 16 and 17, 1949, named Dr. Edward L. Young, Massachusetts General Hospital, as a sponsor, Elizabeth Gurley Flynn, a member of the national committee of the Communist Party, in writing about the conference for her column in the Daily Worker (July 25, 1949, p. 8), stated that one of the highlights of the conference was the fight for the 12 defendants in the current Communist cases. She reported that seven of the defendants were present and participated actively. The New York Times (July 18, 1949, p. 13) reported that 'the 20 resolutions adopted unanimously by the 2-day conference registered opposition to the conspiracy trial of the 11 Communist leaders, the Presidential loyalty order * * * deportation for political belief * * * among others. The conference also called for an end to the investigation by the Federal Bureau of Investigation into political, rather than criminal, activities.'

"OCTOBER 25, 1955.

"Subject: Viola Bernard, national health committee, NAACP, 1954.

"The public records, files and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"The Daily Worker of April 8, 1938 (p. 4), listed Viola Bernard as one who signed a petition of the American Friends of Spanish Democracy to lift the arms embargo.

"The special Committee on Un-American Activities, in its report of March 20, 1944 (p. 82), cited the American Friends of Spanish Democracy as follows: 'In 1937-38, the Communist Party threw itself wholeheartedly into the campaign for the support of the Spanish loyalist cause, recruiting men and organizing multifarious so-called relief organizations * * * such as * * * American Friends of Spanish Democracy.'

"OCTOBER 25, 1954.

"Subject: Dr. John P. Peters, national health committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"The Communist Daily Worker on March 5, 1941 (p. 2), printed the text of a statement signed by '450 leading figures in America urging the President and Congress to uphold the constitutional rights of the Communist Party of the United States.' Prof. John P. Peters, New Haven, Conn., was listed among the signers. The statement said, in part:

"The Communist Party has been submitting itself to the franchise of the American people for 20 years. For all that time its program and its activities are an open record. In the few cases in which one of its members has been tried for advocating force and violence, the evidence has not been about anything they

have done, nor about the party program, but about the writings of earlier Communists, and in particular the implications drawn from these by the prosecution. * * * Consequently we, who are not Communists, whose concern goes beyond the preservation of their constitutional rights to the maintenance of the democratic way of life as the road into the future, urge you, the President, to exercise your authority and influence to prevent those under you from stimulating un-American actions against Communists by undemocratic utterances * * *."

"The following is quoted from a Statement of Principles for the Defense of Democracy Against McCarthyism, as reported by the Daily Worker of March 31, 1954 (p. 2):

"Minority opinion is being suppressed by such devices as blacklisting, dismissal from employment, and even jailing * * *."

"Teachers, lawyers, doctors, writers, artists, actors and other professionals should be free to practice their professions without discrimination because of their political beliefs or associations, whether they be Republican, Democrat, Socialist, or Communist."

"The Daily Worker article reported that 'the signers of the statement urge support for an eight-point program including abolition of the Attorney General's list of "subversive organizations," reinstatement of teachers dismissed in recent inquiries, and amnesty for those in jail on charges of "conspiracy to teach and advocate" their political views.'" Dr. John P. Peters, New Haven, was named as a signer.

"The files of this committee contain an undated 'Open Letter to the Members of the 83d Congress of the United States' mimeographed on the letterhead of the National Committee to Repeal the McCarran Act (Internal Security Act of 1950). The letter (received by the committee in January 1953) urged support of legislation seeking repeal of the McCarran Act (the Internal Security Act of 1950).' The letter said, in part:

"We ask this because we believe that it is the essence of our American democratic tradition that the right of dissent is basic to our democratic institutions; that the people and not the government shall judge the merit of ideas; that the people shall be free to organize into political, religious or economic associations without governmental restraint; that men may be punished for crimes they commit but never for opinions they hold * * *"

"Dr. John P. Peters was named as a signer.

"The Daily Worker of July 27, 1953 (p. 8), reported that 'Initiators and sponsors of the National Committee to Repeal the McCarran Act made public yesterday an open letter to President Eisenhower asking him to urge Congress "to repeal or thoroughly revise" the McCarran-Walter Immigration Act.' Dr. John P. Peters, New Haven, was listed among the signers.

"According to the Daily Worker of February 25, 1942 (pp. 1 and 4), John P. Peters was a signer of a call issued by the National Free Browder Congress. The special Committee on Un-American Activities cited that congress as a Communist front which arranged to meet March 28-29, 1942. Earl Browder was general secretary of the Communist Party, United States of America, who had been convicted and sentenced to Atlanta Federal Penitentiary for passport fraud (report of March 20, 1944, pp. 69, 87, and 132).

"An undated leaflet published by the Citizens Committee to Free Earl Browder named as one of those who appealed to President Roosevelt for justice in the Browder case John P. Peters, professor of internal medicine, Yale Medical School, and secretary of the Committee of Physicians for Improvement of Medical Care. The Citizens Committee to Free Earl Browder was cited as Communist by the United States Attorney General (Congressional Record, vol. 88, pt. 6, p. 7447; letter to Loyalty Review Board, released April 27, 1949). It was included in a consolidated list of organizations previously designated pursuant to Executive Order No. 10450, compiled from memoranda of the Attorney General dated April 29, July 15, September 28, 1953, and January 22, 1954 (indicated in citations hereinafter by *).

"The Daily Worker of July 10, 1942 (p. 4), reported that John P. Peters was a signer of an open letter in defense of Harry Bridges, cited as a Communist front by the Special Committee on Un-American Activities (report of March 20, 1944, pp. 57, 112, 129, and 166).

"On the back of letterheads dated June 8, 1943, and January 10, 1944, Prof. John P. Peters, Yale University, was a committee member or sponsor of the Citizens Victory Committee for Harry Bridges (ibid., p. 97).

"It was reported in the Daily Worker of December 10, 1952 (p. 4), that Professor Peters was a signer of an appeal to President Truman requesting amnesty for leaders of the Communist Party convicted under the Smith Act.

"Dr. John P. Peters, of the Yale University School of Medicine, was a sponsor of the Bill of Rights Conference, New York City, July 16-17, 1949, according to the Daily Worker, July 1, 1949 (p. 5), and the call to the conference. Elizabeth Gurley Flynn, member of the National Committee of the Communist Party, in writing about the conference for her column in the Daily Worker (July 25, 1949, p. 8), stated that one of the highlights of the conference was the fight for the 12 defendants in the current Communist cases. She reported that seven of the defendants were present and participated actively. The New York Times (July 18, 1949, p. 13) reported that 'the 20 resolutions adopted unanimously by the 2-day conference registered opposition to the conspiracy trial of the 11 Communist leaders, the Presidential loyalty order * * * deportation for political belief * * * among others. The conference also called for an end to investigations by the Federal Bureau of Investigation into political, rather than criminal activities.'

"Soviet Russia Today, in its issue of September 1939, printed the text of an open letter calling for closer cooperation with the Soviet Union. The letter was quoted as saying: 'The Soviet Union continues as always to be a consistent bulwark against war and aggression, and works unceasingly for the goal of a peaceful international order.' Dr. John P. Peters, department of internal medicine, Yale University Medical School, was listed as a signer. Soviet Russia Today was cited as a Communist front by the Special Committee on Un-American Activities (report of March 29, 1944, p. 167; June 25, 1942, p. 21) and by the Committee on Un-American Activities (Report No. 1953, April 26, 1950, p. 103).

"Dr. Peters was a sponsor of the National Council of American-Soviet Friendship, as shown by the call to the Congress of American-Soviet Friendship, November 6-8, 1943 (p. 4), and a memorandum issued by the council, March 18, 1946. Soviet Russia Today reported (June 1943, p. 21) that he was a signer of an open letter to the American people, sponsored by the council. The Attorney General cited the National Council of American-Soviet Friendship as subversive and Communist (letters to the Loyalty Review Board, released June 1, 1948, and September 21, 1948; September 11, 1950). In its report of March 29, 1944, p. 166, the special Committee on Un-American Activities said: 'In recent months, the Communist Party's principal front for all things Russian has been known as the National Council for American-Soviet Friendship.'

"According to a letterhead dated September 22, 1939, John P. Peters was a member of the National Committee of the American Committee for Democracy and Intellectual Freedom. A mimeographed sheet attached to a letterhead dated January 17, 1940, named him as a signer of a petition sponsored by the organization. The American Committee for Democracy and Intellectual Freedom was cited as a Communist front which defended Communist teachers (Special Committee on Un-American Activities, reports of June 25, 1942, p. 18, and March 29, 1944, p. 87).

"John P. Peters was listed as a signer of an appeal sponsored by the National Federation for Constitutional Liberties, urging the Governor of California to dismiss charges against Sam Adams Darcy, Communist leader, in a report which appeared in the Daily Worker, December 19, 1940. The article said (p. 5):

"Darcy was recently extradited by California authorities from Pennsylvania, where he was State chairman of the Communist Party. He faces up to 14 years imprisonment for a minor inaccuracy in his registration as a voter in California in 1934."

"This committee's report on Civil Rights Congress as a Communist-front organization September 2, 1947, contains a reprint of a statement (from PM, March 3, 1947, p. 20) by 'outstanding Americans' who urged the President to 'effect immediate release of Gerhart Eisler,' a German Communist. Prof. John P. Peters, Yale Medical School, was named as one of those joining in the statement.

"A letterhead dated April 6, 1939, showed Dr. John P. Peters as a national sponsor of the American League for Peace and Democracy. That organization was cited as subversive and Communist by the Attorney General (letters to the Loyalty Review Board released June 1, 1948, and September 21, 1948; Congressional Record, vol. 88, pt. 8, pp. 7442 and 7443). The Special Committee on Un-American Activities called it 'the largest of the Communist "front" movements in the United States * * * Earl Browder was its vice president * * *. An examination of the program of the American League will show that the organiza-

tion was nothing more nor less than a bold advocate of treason' (reports of January 3, 1939, pp. 69-71, and March 29, 1944, p. 37.)

"A pamphlet, *Relighting the Lamps of China*, named John P. Peters as a medical sponsor of the China Aid Council, cited by the Special Committee on Un-American Activities as a subsidiary of the American League for Peace and Democracy (report of June 25, 1942, p. 16).

"Professor Peters was a signer of an open letter sponsored by the National Emergency Conference for Democratic Rights, according to a report in the *Daily Worker*, May 13, 1940, pp. 1 and 5. In its report of September 2, 1947, p. 12, the Committee on Un-American Activities said: 'It will be remembered that during the days of the infamous Soviet-Nazi pact, the Communists built protecting organizations known as the National Emergency Conference, the National Emergency Conference for Democratic Rights, which culminated in the National Federation for Constitutional Liberties.' The organization was also cited by the special committee, in its report of March 29, 1944, pp. 48 and 102.

"As reported in the foregoing, Professor Peters was named as a signer of an appeal sponsored by the National Federation for Constitutional Liberties in Behalf of Sam Darcy. A booklet, '600 Prominent Americans' (p. 27), names him as a signer of an open letter sponsored by the federation, urging the President to rescind 'the Attorney General's ill-advised, arbitrary, and unwarranted findings relative to the Communist Party' and Harry Bridges. An advertisement in the *New York Times*, April 1, 1946 (p. 16), listed him as a signer of a statement sponsored by the federation, opposing use of injunctions in labor disputes. The Attorney General stated that the National Federation for Constitutional Liberties was 'part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program' (Congressional Record, vol. 88, pt. 6, p. 7446; also cited in letters to the Loyalty Review Board released December 4, 1947, and September 21, 1948). The Committee on Un-American Activities reported that it was among a maze of organizations which were 'spawned for the alleged purpose of defending civil liberties in general, but actually intended to protect Communist subversion from any penalties under the law' (report No. 1115, September 2, 1947, p. 3). The special Committee on Un-American Activities called it one of the viciously subversive organizations of the Communist Party (report of March 29, 1944, p. 50).

"A letterhead dated November 18, 1938, named John P. Peters as a member of the doctors committee on the medical bureau, American Friends of Spanish Democracy. New Masses reported (January 5, 1937, p. 31) that he was a member of the professional committee of that organization. Letterheads dated July 6, 1938, and January 30, 1939, named him as a sponsor of the medical bureau and North American Committee To Aid Spanish Democracy (see also New Masses, May 18, 1937, p. 25). 'In 1937-38, the Communist Party threw itself wholeheartedly into the campaign for the support of the Spanish Loyalist cause, recruiting men and organizing multifarious so-called relief organizations' (Special Committee on Un-American Activities, report of March 29, 1944, p. 82). The organizations named in this paragraph were among those referred to in the citation.

"A booklet, 'These Americans Say: "Lift the Embargo Against Republican Spain,"' the material for which was compiled and published by the Coordinating Committee To Lift the Embargo, named John P. Peters as a representative individual who 'in the name of true neutrality, in the cause of world peace and democracy,' advocated lifting the embargo on the sale of arms to Spain. The Coordinating Committee was cited by the Special Committee on Un-American Activities as one of a number of front organizations set up during the Spanish Civil War by the Communist Party in the United States (report of March 29, 1944, pp. 137 and 188).

"According to a letterhead dated November 16, 1939, John P. Peters was a sponsor of the Medical Aid Division of the Spanish Refugee Relief Campaign, cited as a Communist front (Special Committee on Un-American Activities, report of Jan. 3, 1940, p. 9).

"The *Daily Worker* of December 24, 1944 (p. 14), named Dr. John P. Peters as an initiating sponsor of the Independent Citizens Committee of the Arts, Sciences, and Professions. A letterhead of the Connecticut ICCSAP listed him as a council member. Letterheads of May 23, 1946, and November 23, 1946, named him as a member of the board of directors of the ICCSAP. The Committee on Un-American Activities cited the Independent Citizens Committee of the Arts,

Sciences, and Professions as a Communist front (Review of the Scientific and Cultural Conference for World Peace, H. Rept. No. 1954, Apr. 26, 1950, p. 2; H. Rept. 378, Apr. 25, 1951, pp. 11 and 12).

"Dr. Peters was named as a sponsor of the Cultural and Scientific Conference for World Peace, New York City, March 25-27, 1949, which was arranged by the National Council of the Arts, Sciences, and Professions (conference call; conference program, p. 13). The Daily Worker of May 16, 1952 (p. 2), reported that he was a signer of the Peace Appeal in the spring peace drive of the National and New York Councils of the Arts, Sciences, and Professions. The National Council of the Arts, Sciences, and Professions was cited as a Communist front by the Committee on Un-American Activities (H. Rept. 1954, Apr. 26, 1950, p. 2)."

"OCTOBER 25, 1955.

"Subject: Dr. Russell L. Cecil, national health committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"A pamphlet, 'Relighting the Lamps of China,' listed Russell L. Cecil as a medical sponsor of the China Aid Council.

"The special Committee on Un-American Activities, in its report of June 25, 1942 (p. 16), cited the China Aid Council as a 'subsidiary' of the American League for Peace and Democracy, cited as subversive and Communist by the Attorney General of the United States in letters to the Loyalty Review Board, released June 1 and September 21, 1948; redesignated April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list of organizations previously designated. The organization was cited previously by the Attorney General as established in the United States in 1937 as successor to the American League Against War and Fascism 'in an effort to create public sentiment on behalf of a foreign policy adapted to the interests of the Soviet Union * * *' (Congressional Record, vol. 88, pt. 6, pp. 7442 and 7443). The Special Committee on Un-American Activities, in its report of January 3, 1939 (pp. 69-71), cited the American League for Peace and Democracy as 'the largest of the Communist "front" movements in the United States * * *'."

"OCTOBER 25, 1955.

"Subject: Dr. O. Herbert Marshall, national health committee, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"A membership list of the American League for Peace and Democracy which was compiled by the special Committee on Un-American Activities from original records of the organization, subpoenaed in 1939 by the committee, contains the name of one O. Herbert Marshall, of 2712 P Street NW., Washington, D.C.

"The Attorney General of the United States cited the American League for Peace and Democracy as subversive and Communist in letters to the Loyalty Review Board, released June 1 and September 21, 1948. The Attorney General redesignated the organization April 27, 1953, pursuant to Executive Order No. 10450, and included it on the April 1, 1954, consolidated list of organizations previously designated. The organization was cited previously by the Attorney General as established in the United States in 1937 as successor to the American League Against War and Fascism 'in an effort to create public sentiment on behalf of a foreign policy adapted to the interests of the Soviet Union' (Congressional Record, vol. 88, pt. 6, pp. 7442 and 7443). The Special Committee on Un-American Activities in its report of January 3, 1939 (pp. 68-71), cited the American League for Peace and Democracy as 'the largest of the Communist "front" movements in the United States * * *'."

"O. Herbert Marshall was shown as a sponsor of the Washington Citizens Committee to Free Earl Browder in an advertisement of the organization which appeared in the Washington Post of May 1942 (p. 9). When Earl Browder

(then general secretary, Communist Party) was in Atlanta Penitentiary serving a sentence involving his fraudulent passports, the Communist Party's front which agitated for his release was known as the Citizens' Committee to Free Earl Browder * * * Elizabeth Gurley Flynn, one of the few outstanding women leaders of the Communist Party in this country, headed it' (special Committee on Un-American Activities, report, March 29, 1944, pp. 6 and 55). The Citizens' Committee to Free Earl Browder was cited as Communist by the Attorney General in a letter released April 27, 1949; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list.

"The call to a conference on civil rights, April 20-21, 1940 (p. 4), lists C. Herbert Marshall, M. D., as a sponsor of the Washington Committee for Democratic Action, under whose auspices the conference was held. A letterhead of the organization, dated April 26, 1940, also shows C. Herbert Marshall as a sponsor. In 1941, Dr. C. Herbert Marshall was a member of the executive committee of the Washington Committee for Democratic Action, according to a letterhead dated May 23, 1941.

"The Attorney General cited the Washington Committee for Democratic Action as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. The organization was cited previously by the Attorney General as an 'affiliate' or 'local chapter' of the National Federation for Constitutional Liberties. 'The program of the Washington committee followed that of the national federation. National Communist leaders have addressed its meetings, and conferences sponsored by it have been attended by representatives of prominent Communist-front organizations' (Congressional Record, vol. 88, pt. 6, p. 7448). The Special Committee on Un-American Activities, in its report of June 25, 1942 (p. 22), cited the Washington Committee for Democratic Action as follows: 'When the American League for Peace and Democracy was dissolved in February 1940 its successor in Washington was called the Washington Committee for Democratic Action.'

"As shown by an advertisement in the Washington Post, May 18, 1948 (p. 15), Dr. C. Herbert Marshall signed a statement against the Mundt anti-Communist bill."

"FEBRUARY 18, 1956.

"Subject: Gloster Current, director of branch department, NAAOP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"Gloster Current and his orchestra were scheduled to play at the Independence Day picnic to be held July 3-4, 1938, under the auspices of the Communist Party of Michigan, according to a leaflet entitled 'Where's Everybody Going?' which announced the picnic.

"The Civil Rights Federation (affiliated with the National Federation for Constitutional Liberties) issued a call to a statewide conference, September 12, 1943, in Detroit, Mich.; the name of Gloster Current appeared on the call in a list of sponsors and he was identified as secretary, National Association for the Advancement of Colored People, Detroit chapter.

"The Attorney General of the United States cited the Michigan Civil Rights Federation as an affiliate of the Communist front, the National Federation for Constitutional Liberties; and as a subversive and Communist organization which has been succeeded by and now operates as the Michigan chapter of the Civil Rights Congress. (Congressional Record, vol. 88, pt. 6, p. 7446; and press releases of December 4, 1947, June 1 and September 21, 1948; also included on his consolidated list of organizations.) The Special Committee on Un-American Activities and the Committee on Un-American Activities cited the Michigan Civil Rights Federation as a Communist-front organization. (From Report No. 1811 of the Special Committee on Un-American Activities, dated March 29, 1944; and Report No. 1116 of the Committee on Un-American Activities, dated September 2, 1947.)

"In July 1947 Mr. Walter S. Steele testified in public hearings before this committee, at which time he named Gloster Current of the National Association for the Advancement of Colored People as a council member from the United

States to the World Federation of Democratic Youth (from Steele testimony, p. 81).

"The World Federation of Democratic Youth was founded in London in November 1945 by delegates from over 50 nations. From the outset, the World Federation of Democratic Youth demonstrated that it was far more interested in serving as a pressure group in behalf of Soviet foreign policy than it was in the specific problems of international youth. (From Report No. 271 of the Committee on Un-American Activities dated April 17, 1947.)"

"FEBRUARY 13, 1950.

"Subject: Ruby Hurley, southeast regional secretary, Birmingham, Ala., NAACP, 1934.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"Ruby Hurley was a sponsor of the World Youth Festival, Prague, July-August 1947, as shown by the World Youth Festival, page 7, and the booklet, the Bright Face of Peace, published by the United States Committee for the World Youth Festival. As shown by the call to World Youth Festival (p. 3), the festival, held in Prague from July 20 to August 17, 1947, was sponsored by the World Federation of Democratic Youth and the International Union of Students.

"The Committee on Un-American Activities, in its report of April 17, 1947 (pp. 12 and 13), cited the World Federation of Democratic Youth as follows: 'The AYD (American Youth for Democracy) is affiliated with the World Federation of Democratic Youth, which was founded in London in November 1945 by delegates from over 50 nations. * * * From the outset the World Federation of Democratic Youth demonstrated that it was far more interested in serving as a pressure group in behalf of Soviet foreign policy than it was in the specific problems of international youth.'

"The International Union of Students was cited as follows by the Committee on Un-American Activities in its report of April 17, 1947 (p. 13): 'The World Federation of Democratic Youth brought into being the International Union of Students, which held a meeting in Prague on August 17-31, 1946. The administration and direction of this project was entrusted to a 17-man executive committee, of whom 12 were known Communists.'

"FEBRUARY 13, 1950.

"Subject: Franklin H. Williams, west-coast regional secretary, counsel, San Francisco Calif., NAACP, 1934.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"Franklin H. Williams was a member of the executive board, New York committee, Southern Conference for Human Welfare, as shown on an undated leaflet entitled 'The South Is Closer Than You Think,' published by the New York office and received for committee files about February 1947.

"The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 147), cited the Southern Conference for Human Welfare as a Communist front which received money from the Robert Marshall Foundation, one of the principal sources of funds by which many Communist fronts operate. The Committee on Un-American Activities, in its report of June 12, 1947, cited the Southern Conference for Human Welfare as a Communist-front organization 'which seeks to attract southern liberals on the basis of its seeming interest in the problems of the South' although its 'professed interest in southern welfare is simply an expedient for larger aims serving the Soviet Union and its subservient Communist Party in the United States.'

"The Daily Worker, in its issues of December 10, 1947 (p. 10) and December 21, 1947 (p. 4), reported that Franklin Williams, New York State chairman, American Veterans' Committee, was a speaker at a rally protesting the barring of

Howard Fast from speaking at student campus rallies at Columbia University, Brooklyn, and City Colleges. Fast was barred from speaking because he was under a 3-month jail sentence for contempt of Congress.

"OCTOBER 25, 1935.

"Subject: U. S. Tate, regional special counsel for southwest, Dallas, Tex., NAACP, 1931.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"According to the program, Second National Negro Congress, October 1937, U. Simpson Tate was chairman of a discussion group at the congress. In the material prepared by Walter S. Steele and submitted in connection with his testimony before the special Committee on Un-American Activities on August 17, 1938, U. Simpson Tate was named as having been elected national treasurer of the National Negro Congress at the second congress (public hearings, p. 620).

"The Attorney General of the United States cited the National Negro Congress as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947 and September 21, 1948; redesignated April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954 consolidated list of organizations previously designated. The Attorney General cited the organization previously as a Communist front (Congressional Record, vol. 88, pt. 6, p. 7447). The Special Committee on Un-American Activities, in its report of January 3, 1939 (p. 81), cited the National Negro Congress as 'the Communist-front Movement in the United States among Negroes.'

"FEBRUARY 13, 1950.

"Subject: Thurgood Marshall, special counsel, NAACP, 1934.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"Thurgood Marshall was a member of the national committee of the International Juridical Association, as shown in the pamphlet, What Is the I.J.A.? The special Committee on Un-American Activities cited the International Juridical Association as 'a Communist front and an offshoot of the International Labor Defense' (Rept. No. 1311, dated March 29, 1944). In a report on the National Lawyers Guild, prepared and published September 17, 1930, by the Committee on Un-American Activities, the International Juridical Association was cited as an organization which 'actively defended Communists and consistently followed the Communist Party line.'

"A list of officers of the National Lawyers Guild, as of December 1949 (printed in the committee's report on the National Lawyers Guild, p. 18) contains the name of Thurgood Marshall, New York City, among the members of the executive board. He was shown to be an associate editor of the Lawyers Guild Review in the issue of May-June 1948 (p. 422). It was reported in the Daily Worker of November 30, 1942 (p. 1), that Mr. Marshall, special counsel of the National Association for the Advancement of Colored People, was one of those who submitted a report denouncing lynching and discrimination which was adopted by the national executive board of the National Lawyers Guild. It was also reported in the Washington Evening Star (Feb. 8, 1948, p. A-22 and Feb. 12, 1948, p. A-8), that Mr. Marshall, identified as special counsel, NAACP, criticized the loyalty program in a public forum held under the auspices of the National Lawyers Guild in Washington, D.C.

"The National Lawyers Guild was cited by the special Committee on Un-American Activities as a Communist front in Report No. 1311 of March 29, 1944 (p. 149). In the committee's report on the organization, released in 1930, the guild was cited as a Communist front which 'is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents.'

"The Daily Worker of November 24, 1947 (p. 4), reported that Thurgood Marshall was among a group of attorneys who sent a telegram to New York Congressmen asking them to oppose the contempt citations in the case of the so-called Hollywood 10."

"FEBRUARY 13, 1956.

"Subject: Clarence M. Mitchell, director, Washington Bureau, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated.

"Clarence Mitchell, a representative of the National Association for the Advancement of Colored People, appeared before the Committee on Un-American Activities, May 3, 1950, in opposition to H.R. 7595, at which time he stated that he was not then and had never been a member of the Communist Party. He stated that the question as to whether or not he was a member of the Communist Party is an unfair question, because it immediately precludes from appearing before this committee many of the people who would be on trial under a bill of this kind (H.R. 7595). Presumably there are people who may, for sincere and personal reasons, wish to be members of the Communist Party, but they may want to come here and object to this bill, but I suppose if they had to answer that question they very likely would not come." (Public hearings, pp. 2290-2302.)

"It is noted by the Daily People's World of February 12, 1952 (p. 2) that Clarence Mitchell, director of Washington bureau of the National Association for Advancement of Colored People, 'blasts civil rights record of presidential hopeful.' The Daily Worker of February 15, 1952 (p. 1) reported that Clarence Mitchell, director of Washington bureau, NAACP, appeared before the Senate Armed Forces Committee in protest of universal military training."

"FEBRUARY 13, 1956.

"Subject: Henry Lee Moon, director, public relations department, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"A membership list of the Washington Book Shop which was subpoenaed by the special Committee on Un-American Activities in 1941 contains the name of Henry Lee Moon with address shown as 1206 Kenyon Street NW., Washington, D.C.

"The Attorney General of the United States cited the Washington Book Shop Association as subversive and Communist in letters to the Loyalty Review Board, released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, pursuant to Executive Order No. 10450, and included on the April 1, 1954, consolidated list of organizations previously designated. The special Committee on Un-American Activities, in its report of March 29, 1944 (p. 150), cited the Washington Book Shop Association as a Communist-front organization.

"Henry Lee Moon, New York, was a member of the national executive council of the National Negro Congress, as shown on the official proceedings of the congress for 1936 (p. 40).

"The Attorney General cited the National Negro Congress as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. A. Phillip Randolph, president of the congress since its inception in 1936, refused to run again in April 1940 'on the ground that it was "deliberately packed with Communists and Congress of Industrial Organization members who were either Communist or sympathizers with Communists." Commencing with its formation in 1936, Communist Party functionaries and fellow travelers have figured prominently in the leadership and affairs of the Congress, . . . according to A. Phillip Randolph. John P. Davis, secretary of the congress, has admitted that the Communist Party contributed \$100 a month to its support.' (Attorney General Congressional Record, vol. 88, pt. 6, p. 7447). The special Committee on Un-American Activities, in its report of January 8, 1939 (p. 81), cited the National Negro Congress as 'the Communist-front movement in the United States among Negroes.'

"A review by Abner W. Berry of Henry Lee Moon's book, *Balance of Power: The Negro Vote*, was published in the *Daily Worker* of May 28, 1948 (p. 12). The review reads, in part:

"As a newspaperman who spent the war years in Washington and later was associated with the CIO Political Action Committee, Henry Lee Moon has written, in *Balance of Power* a helpful survey of Negro suffrage in America. He defends the Negro voter against the charge of rehality and corruptibility with the materials of history, and traces the long fight for the franchise.

"* * * It is the only volume brought to our attention which gives a detailed national picture of the Negro vote. It is too bad the author felt impelled to defend the two-party system and the Negro. And it is worse that he chose this otherwise useful contribution as the bearer of his offering of fuel for the cold war."

"A photograph of Henry Lee Moon was published in the June 16, 1932, issue of the *Daily Worker* (p. 2).

"The *Daily Worker* of June 17, 1946 (p. 2), reported that one Henry Moon (no other identification shown) was one of the signers of a statement of the Action Committee To Free Spain Now which protested the delay in breaking diplomatic relations with Franco Spain.

"The Attorney General cited the Action Committee To Free Spain Now as Communist in a letter released April 27, 1949; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list.

"The *Daily Worker* of February 16, 1949 (p. 13), reported that Henry Moon was nominated as commentator of the Voice of Freedom Committee.

"The Attorney General included the Voice of Freedom Committee on the April 1, 1954, consolidated list of organizations previously designated pursuant to Executive Order No. 10450.

"OCTOBER 26, 1955.

"Subject: Clarence A. Laws, regional director, New Orleans, La., NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"An undated letterhead (1947) of the Committee for Louisiana, affiliated with the Southern Conference for Human Welfare, listed Clarence A. Laws as a member of the executive committee of the organization.

"The Special Committee on Un-American Activities, in its report of March 29, 1944 (p. 147), cited the Southern Conference for Human Welfare as a Communist front which received money from the Robert Marshall Foundation, one of the principal sources of funds by which many Communist fronts operate. The Committee on Un-American Activities, in its reports of June 12, 1947, cited the Southern Conference * * * as a Communist-front organization 'which seeks to attract southern liberals on the basis of its seeming interest in the problems of the South' although its 'professed interest in southern welfare is simply an expedient for larger aims serving the Soviet Union and its subservient Communist Party in the United States.'"

"FEBRUARY 18, 1956.

"Subject: Robert L. Carter, assistant special counsel, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"Robert L. Carter wrote an article which was published in the *Lawyers Guild Review* (vol. VI, pp. 553-54, and 599-601). The *Lawyers Guild Review* was cited as "an official organ of the National Lawyers Guild" by the Committee on Un-American Activities, report on the National Lawyers Guild, September 21, 1950 (p. 13).

"The National Lawyers Guild was cited by the special Committee on Un-American Activities as a Communist front organization in its report of March 20, 1944 (p. 140). It was cited as a Communist front which 'is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions' and which 'since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents.' (Committee's review on the National Lawyers Guild, September 21, 1950.)

It was reported in the Times Herald of April 28, 1948 (pp. 1 and 4) that Robert L. Carter, of the American Veterans' Committee, was a sponsor of a conference against anti-Communist legislation."

"FEBRUARY 18, 1950.

"Subject: Torea Hall Pittman, assistant field secretary, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"The official proceedings of the National Negro Congress for 1930 (p. 6) listed Mrs. Torea Pittman, of California, as a member of the general resolutions committee of the National Negro Congress.

"The Attorney General of the United States cited the National Negro Congress as subversive and Communist in letters released December 4, 1947, and September 21, 1948; redesignated April 27, 1953, and included on the April 1, 1954, consolidated list. A. Phillip Randolph, president of the congress since its inception in 1930, refused to run again in April 1940 'on the ground that it was deliberately packed with Communists and Congress of Industrial Organizations members who were either Communists or sympathizers with Communists. Commencing with its formation in 1930, Communist Party functionaries and fellow travelers have figured prominently in the leadership and affairs of the congress' . . . according to A. Phillip Randolph, John P. Davis, secretary of the congress, has admitted that the Communist Party contributed \$100 a month to its support.' (Attorney General, Congressional Record, vol. 88, pt. 6, p. 7447.) The Special Committee on Un-American Activities, in its report of January 8, 1930 (p. 81), cited the National Negro Congress as 'the Communist-front movement in the United States among Negroes.'"

"FEBRUARY 18, 1950.

"Subject: Madison S. Jones, Jr., assistant field secretary, NAACP, 1954.

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated.

"No reference to Madison S. Jones, Jr., is found in the records of the committee; however, one Madison Jones, 557 West 144th Street, signed the Communist Party nominating petition for councilman of the city of New York, Borough of Manhattan, in 1945 (Davis). (See p. 21 of the petitions.)

"One Madison Jones, of New York, youth director for the National Association for the Advancement of Colored People, spoke at a peace mass meeting at Mocca Temple (Daily Worker, February 2, 1941, p. 3, col. 4)."

In 1954, the total list of officers, board members, executive staff members, and others listed are 193. Out of that number, 89 of them have been cited by the House Un-American Activities Committee, or 46.1 percent of the total. It should be noted, however, that 16 persons serve in more than one capacity and are listed in both capacities. When you consider that these 16 persons have double offices or designations, the total list would be 177 of which 78 are cited by the House Committee on Un-American Activities, or 44.1 percent.

The facts speak for themselves; the record has been made. There can be no successful contradiction of these affiliations by these individual members of the association.

On yesterday, it was my privilege to have a lengthy talk with my good friend, Mr. W. B. Nicholson, superintendent of the public school system at Blytheville,

Ark. Mr. Nicholson is a learned educator and a student of race relations. In the conversation I had with him, his remarks were adduced to writing, and I would like that the full text of his statement be incorporated as a part of my remarks:

"I have striven to approach this issue in my thinking in a way that I cannot be accused honestly of being guilty of prejudice against any man because of the color of his skin or the texture of his hair. But, to me, the acts of the NAACP are in violation of the divine principles of creation—and I don't think that is prejudice.

"In my thinking, any act on the part of man to annihilate those things which are so fundamental in their nature that they have survived time, and still exist, is just counter to the original intention of the Creator.

"Now, when the NAACP embarks on a program to break down the laws against interracial marriages in our respective States—and I understand there are 28 States that have laws against it—then the NAACP is not after all working honestly and sincerely for the recognition of the rights of the Negro; they are really working for the abolition and ultimate annihilation of both races.

"I am thoroughly convinced that the NAACP does not reflect the honest sincere sentiments and wishes of the southern Negro. Now, the southern Negro is the only one I am acquainted with. I have lived in Tennessee, Georgia, Alabama; and now I live in Arkansas. I have visited in New Orleans, traveled through Louisiana, and the Carolinas. I spent a year in North Carolina and a great deal of time in South Carolina. The Negro, as I know him, is not honestly being represented and his views are not being reflected accurately or correctly by the NAACP's programs, goals, or campaigns.

"I am convinced in my own mind—I might not be able to put my finger on the facts—but I am convinced that the NAACP has embarked on a program which will result in great harm to both races in this country if they can succeed with it.

"The Negroes in our area openly say that they want to maintain their own social identity in their schools and their organizations as it now is."

I acquiesce and concur fully with the views which Mr. Nicholson expresses.

I call upon this Congress to probe fully and completely the National Association for the Advancement of Colored People. Now, what should that investigation include? How large a scope and sphere should the committee encompass and inquire into? Would it not be proper to ascertain the amount of the collections of the organization; the salary of its officers; the source of its contributions and what expenditures are anticipated by this organization in the various States of the Union in the furtherance of their objectives? According to the Commercial Appeal article by Paul Malloy which had been referred to earlier, NAAOP Counsel Thurgood Marshall was quoted as saying:

"What is so particular about Mississippi? It is just a State in the Union; and as long as it stays in the Union, it will have to play by the rules. We have set up a fund there of close to \$300,000."

Now, I think it would be in order that the Congress and the people should know what funds have been earmarked for other States. I feel that such a thorough investigation is necessary to protect the southern Negro and others who have been duped, victimized, and exploited by and through the promotion schemes of the NAAOP. It would be most desirable that our southern Negroes should know the facts with respect to any organization with which they would become allied or affiliated. Having lived among these people all my life, I am convinced that they would not knowingly contribute to or take part in the activities of any organization upon which there is a question mark.

Mr. DAVIS of Georgia. Mr. Speaker, will the gentleman yield?

Mr. GATHINGS. I yield.

Mr. DAVIS of Georgia. I have listened with a great deal of interest to the exposition which the gentleman is making of the citation of officers and directors and others acting in an official capacity in the NAAOP organization. I call to the gentleman's attention the fact that in today's Washington Post and Times Herald, there is a news item stating as follows:

"RESOLUTION HITS AT NAAOP"

"COLUMBIA, S.C., February 22.—The South Carolina General Assembly today adopted a resolution asking the United States Attorney General to place the National Association for Advancement of Colored People on his list of subversive organizations.

"Fifty-three of the NAACP's top officers have been cited by the House Un-American Activities Committee for "affiliation with or participation in Communist, Communist front, fellow-traveling or subversive organizations or activities," the resolution declared.

"Adoption was without comment in both house and senate.

"The resolution said the NAACP 'should be classified as a subversive organization so that it may be kept under the surveillance and that all citizens of the United States may have ample warning of the danger which lurks in such an organization.'

"Employment of NAACP members by the State or its political subdivisions would be banned under a bill passed by the house to the senate today."

Mr. GATHINGS. I thank the gentleman from Georgia for his contribution, and to have in the Record at this point the information in the resolution that has been passed by the South Carolina General Assembly.

Mr. WILLIAMS of Mississippi. Mr. Speaker, will the gentleman yield?

Mr. GATHINGS. I yield to the gentleman from Mississippi.

Mr. WILLIAMS of Mississippi. Has the gentleman completed his statement?

Mr. GATHINGS. I have.

Mr. WILLIAMS of Mississippi. I would like to congratulate the gentleman for rendering a distinct service to his country, by exposing this organization which is stirring up racial hatreds throughout not only the South but also throughout the entire country.

I think it is the duty of this Congress, as the gentleman has stated, to investigate the background of the leaders of the NAACP and to investigate their activities fully.

I might state further that it might be well for this Congress also to take a look at this so-called Leadership Conference which is scheduled for Washington in the next few weeks.

Mr. GATHINGS. In the near future, I believe.

Mr. WILLIAMS of Mississippi. Permit me, if you will, to read from the remarks of Representative Diggs, of Michigan, under date of February 9, 1956, which appeared in the Congressional Record of that date, in which he inserted a news release issued by the leaders of this group calling this conference to be held in Washington on March 4 through March 6.

The person who issued the call is one Roy Wilkins, chairman of the group, who is also, as I understand, the secretary of this NAACP outfit.

Mr. GATHINGS. That is right.

Mr. WILLIAMS of Mississippi. I quote from the new release as it appears in the Congressional Record:

"It is essential," the call declared, "that Congress enact legislation in this session to safeguard the civil rights of American citizens and the processes of orderly government."

The news release goes further to state this:

"The conference seeks enactment of an eight-point legislative program including job equality through the establishment of an effective Federal FEPC, withholding of Federal funds from any institution which defies the constitutional prohibition against segregation in public facilities, making lynching and other race-inspired acts of violence Federal offenses, abolition of the poll tax and protection of the right to vote, establishment of a Civil Rights Division in the Department of Justice with authority to protect civil rights in all sections of the country, creation of a permanent Federal Commission on Civil Rights, elimination of remaining segregation and other forms of discrimination in interstate travel, and provision for majority rule in the Senate and the House of Representatives."

In this article they quote this Roy Wilkins as stating this:

"The influence of this assembly on the Congress will depend less upon the number of individual delegates in attendance than upon the number of States and congressional districts represented."

When I heard that meeting was to be held in the Interior Department Auditorium, a Government building under the administration of the General Services Administration, I inquired to find out if political meetings could properly be held in that auditorium. I find that these are the regulations governing the use of the departmental auditorium and adjacent conference rooms.

Mr. Speaker, I ask unanimous consent that I may insert in the Record a copy of these regulations.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

(The matter referred to follows:)

"GENERAL SERVICES ADMINISTRATION REGION 8,
"Washington, D.C.

"REGULATIONS GOVERNING THE USE OF THE DEPARTMENTAL AUDITORIUM AND ADJACENT CONFERENCE ROOMS, CONSTITUTION AVENUE BETWEEN 12TH AND 14TH STREETS NW.

"1. The departmental auditorium and conference rooms A, B, and C adjacent thereto shall be available for assignment to:

"a. Agencies of the Federal Government and the government of the District of Columbia, for official use.

"b. Officially recognized agencies, clubs, or educational units of the Federal Government or the government of the District of Columbia.

"The foregoing shall not be construed to include sponsored meetings, meetings of a political, sectarian, fraternal, or similar nature, or meetings held for the purpose of promotion of commercial enterprises or commodities.

"2. Application for the use of the auditorium or conference rooms should be submitted at least 1 week in advance. It should be addressed as follows and include the information outlined below:

"General Services Administration. Attention: Triangle area manager, region 3, room 1408, New Post Office Building, 12th Street and Pennsylvania Avenue NW., Washington 25, D.C.

"a. Name of agency in whose behalf the application is submitted.

"b. Date of requested assignment, and hours proposed for its commencement and termination.

"c. Nature of the contemplated program.

"d. Approximate number of persons expected to attend.

"e. Whether motion pictures or lantern slides are to be exhibited, stating (1) size of film, 35 or 16 millimeter; (2) size of lantern slide.

"3. No program shall continue beyond midnight.

"4. If the projection of motion pictures or lantern slides is a part of the program, competent operators will be furnished under the supervision of the General Services Administration.

"5. Music racks, ushers, and attendants for checking wraps, if needed, must be furnished by and at the expense of the permittee.

"6. No admission fee shall be charged, no indirect assessment shall be made for admission, and no collection shall be taken. Commercial advertising or the sale of articles of any character will not be permitted.

"7. The serving of refreshments is prohibited.

"8. A sample of any literature or folders to be distributed or posted shall be forwarded for review when formal request is made for either the auditorium or conference rooms.

"9. All persons attending meetings will be required to go directly to the auditorium or conference rooms and to leave by the most direct exit. They shall be provided with tickets or other identification, except when the general public is invited. No one will be admitted to other parts of the building unless in the possession of a properly signed pass.

"10. All persons attending meetings will be subject to the 'Rules and Regulations Governing Public Buildings and Grounds,' promulgated by the Administrator of General Services.

"11. Smoking is prohibited within the auditorium.

"Approved December 1, 1953.

"WILLIAM A. MILLER,
"Regional Director."

Mr. WILLIAMS of Mississippi. You will note that these regulations provide that the departmental auditorium and conference rooms A, B, and C adjacent thereto shall be available for assignment in 2 instances, and 2 instances only.

First: To agencies of the Federal Government or the government of the District of Columbia for official use.

Second. Shall be available to officials of recognized agencies, clubs, and educational units of the Federal Government or the government of the District of Columbia.

On February 20, I sent the following telegram to the Secretary of Labor, who I am informed, had requested the General Services Administration to permit the use of this auditorium by this group under the sponsorship of the Labor Department:

"I am informed that at the request of the Department of Labor General Services Administration is granting the use of the Departmental Auditorium, Constitution Avenue between 12th and 14th Streets NW., to a conference scheduled for March 4, 5, and 6. Inasmuch as this gathering is purely political in nature and has been called for purpose of lobbying and pressuring the United States Congress, I urge you to withdraw the Department's request for use of the auditorium, Roy Wilkins, chairman of the conference, is quoted in the Congressional Record in issuing the call for the conference, as follows:

"The influence of the assembly on the Congress will depend less upon the number of individual delegates in attendance than upon the number of States and congressional districts represented."

"General Services Administration regulations prohibit the use of this auditorium for political meetings but they seem to think your request for its use should be honored. I do not believe it was ever the purpose of Congress when creating the Department of Labor and enacting subsequent laws that the Department should engage in such a bold and blatant political move as you are doing in helping to sponsor this so-called leadership conference."

Mr. Speaker, 3 days have expired and I have not heard a word from the Secretary of Labor. I think the appropriate congressional committee might well go into this situation and find out if it is true that the NAACP and its allied leftwing organizations are actually being regarded as official agencies of the United States Government by virtue of this recognition accorded them by the Department of Labor. I may say that I am not sure any of the groups listed are Red, but I do know that the Communists have allied themselves with the aims of the NAACP. I think we should look into this proposition.

Mr. GATHINGS. I agree with the gentleman.

Mr. WILLIAMS of Mississippi. I hope other Members of the Congress will join me in protesting the use of this Interdepartmental Auditorium by these radical organizations that have been attempting to high pressure, bulldoze, and intimidate the Congress into going along with their political aims and desires.

Mr. GATHINGS. Since the gentleman has not heard from the Department in answer to his request, it seems to me it would be most desirable and urgent that something be done soon because the meeting will be held in a very short time.

Mr. WILLIAMS of Mississippi. I wonder what the Secretary of Labor might say if the citizens' councils of the States of Mississippi, Alabama, or Georgia, organizations designed to promote the interests of the white people, as well as to defend the Constitution, were to request permission to use this Interdepartmental Auditorium?

Mr. GATHINGS. That would be mighty interesting to me. I am appreciative of the gentleman's remarks and am in full accord with you that a Federal departmental auditorium should not be used for a mass political gathering. I trust that the Secretary of Labor will deny the use of that Department's facilities for this conference.

Mr. ASHMORE. Mr. Speaker, will the gentleman yield?

Mr. GATHINGS. I yield to the gentleman from South Carolina.

Mr. ASHMORE. First, I want to thank the gentleman for bringing some most enlightening information to the Members of this House. I have been amazed to hear these facts concerning various Members of the NAACP, most of them officers of the organization, being on the subversive list. Most of those the gentleman mentioned were officers or directors of that organization, is that correct?

Mr. GATHINGS. Yes. I would like to say to the gentleman that I have here an actual list of those that will be inserted in the Record. Some of the citations are of a most severe nature, others are not—

Mr. ASHMORE. And the total number was 80 something, did I understand the gentleman to say?

Mr. GATHINGS. No, I do not think there were that many—41 percent, I believe it was. I will have to get that figure.

Mr. ASHMORE. Officers and directors?

Mr. GATHINGS. But it was about 41 percent of the total that were listed as heads of the organization in various capacities; that is, the board of directors, its officers, its executive staff, its legal division, and its health division.

Mr. ASHMORE. I have heard many reports and many rumors and, you might say, talk or gossip, whatever it might be, about various members of the NAACP being subversive or communistic, but none of those statements or reports have pinpointed the thing to the degree that the gentleman has. The gentleman has brought out these statements and these records which show undoubtedly that many of their leaders are on the subversive list.

Mr. GATHINGS. Well you can see the large list here. They are the ones that will be inserted in the Record.

Mr. ASHMORE. I want to commend the gentleman again for bringing those facts to us, and I also want to commend the legislature of my home State of South Carolina for requesting the Attorney General to place the NAACP, because of these facts and other facts which have been brought to us, on the subversive list. And, I want to say further that if the Attorney General does not do it, I want to know why he does not do it in the light of the facts we have heard here today. I do not see how he could do otherwise than say that the entire organization, infested with leadership of this type, should be placed on the subversive list. I believe, that in fairness to those who have been placed on the list, and the American people in general, that this organization should be declared subversive, and if the Attorney General fails to do so he should make a clear-cut statement as to why he does not.

Mr. GATHINGS. And I think the Congress should probe this organization in all of its phases.

Mr. ASHMORE. Yes, and I hope the members of the press will give as much publicity to these facts as has been given to the other side of the case. I think it is only fair to the Southland, to the white people and to the colored people of this country, that both sides be brought out and let us know what is going on in this country.

Mr. GATHINGS. I feel that our southern Negroes ought to know these facts.

Mr. ASHMORE. Yes. And, if many of our southern Negroes did know the facts, they would not follow this NAACP leadership, because I know of some in my hometown of Greenville, S.C., who have been putting greenbacks into the bushel baskets, when they collected funds to fight these things that the NAACP wanted to fight, but when they found out what the true purpose of the NAACP was, they quit going to the meetings, stopped giving their money to the leaders of the NAACP in my city and are now on the other side of the fence, on the side where they used to be, with the white people of the South who have done so much for the Negro.

The South Carolina resolution is as follows:

"Concurrent resolution requesting the Attorney General of the United States to place the National Association for the Advancement of Colored People on the subversive list for reasons set forth herein:

"Whereas the files of the House Un-American Activities Community reveal records of affiliation with or parties in communism, Communist-front, fellow traveling, or subversive organizations or activities on the part of the following officials of the NAACP: the president, the chairman of the board, the honorary chairman, 11 of 28 vice presidents, the treasurer, 28 of 47 directors, the chairman of the national legal committee, the executive secretary, the special counsel, the assistant special counsel, the southeast national secretary, the west coast secretary, the director of the Washington bureau, and director of public relations and two field secretaries;

"Whereas of the NAACP's 28 vice presidents, the following 11 have records of un-American activities: John Haynes Holmes, 23 citations; A. Phillip Randolph, 20 citations; the late Mary McLeod Bethune (who still is listed as a vice president) and William Lloyd Imes, 18 citations each; Oscar Hammerstein II, the composer, and Bishop W. J. Walls, 7 citations each; Ira W. Jayne and L. Pearl Mitchell, 2 citations each; Willard S. Townsend, T. G. Nulter, Grace B. Fenderson, 1 citation each;

"Whereas of the 47 members comprising the association's board of directors, the following 28 have records of un-American activities: Earl B. Dickerson, 25 citations; Algernon D. Black, 18 citations; Lewis Gannett, 15 citations; Roscoe Dunjee, 13 citations; S. Ralph Harlow, Channing H. Tobias, 10 citations each; William H. Hastie, 9 citations; Hubert T. Delaney, 8 citations; Benjamin E. Mays, president of Atlanta's Morehouse College, 6 citations; Robert G. Weaver, 5 citations; Buell G. Gallagher, 4 citations; President Arthur B. Spingarn, Earl G. Harrison, James J. McClendon, Ralph Bunche, Allen Knight Chalmers, and W. Montague Cobb, 3 citations each; J. M. Tinsley, Wesley W. Law, of Savannah,

Ge. Norman Copsins, Alexander Looby, Henry J. Greene, Alfred Baker Lewis, 2 citations each; H. Claude Hudson, Carl R. Johnson, A. Marceo Smith, James Hinton, Theodore M. Berry, 1 citation each;

"Whereas other officers of the NAACP with un-American activities records are: Lloyd Garrison, chairman, national legal committee, 5 citations; Treasurer Allan Knight Chalmers and Branch Department Director Glaster B. Current, 3 citations each; Southeastern Regional Secretary Ruby Hurley, West Coast National Secretary Franklin H. Williams, Field Secretary Madison S. Jones, and Assistant Special Council Robert L. Carter, 2 citations each; and Field Secretary Tarea Hall Pittman, 1 citation: Now therefore, be it

Resolved by the house of representatives (the senate concurring), That the General Assembly of South Carolina believes that for the reasons herein set forth that the NAACP should be classified as a subversive organization so that it may be kept under the proper surveillance so that all citizens of the United States may have ample warning of the danger to our way of life which works in such an organization; be it further

Resolved, That a copy of this resolution be sent to the President of the United States, to the Attorney General, and to each Member of the Congress of the United States."

Mr. GRANT. Mr. Speaker, will the gentleman yield?

Mr. GATHINGS. I yield to the gentleman from Alabama.

Mr. GRANT. I want to congratulate my colleague from Arkansas for bringing this to the attention of the House. It seems to me that this forum here, in the Hall of Congress, is about the only place you can get any publicity or the only place you can discuss it in this section of the country. The gentleman will probably recall that several years ago there was pictured in Life magazine some scenes of school buildings over in his or near his congressional district in West Memphis, Ark.

Mr. GATHINGS. Yes, I recall that.

Mr. GRANT. They showed several colored children drinking from a hydrant with one dipper. Well, I imagine the gentleman, like myself, has carried water from the spring and drunk it out of a gourd. The superintendent of schools in one of the counties of my congressional district in Alabama, which has one of the finest systems of both white and colored schools that can be found in the entire United States, had some 12 or 15 pictures taken of colored schools in that county and sent them to the publishers of Life, showing them what fine colored school buildings we had in the State of Alabama.

Mr. GATHINGS. If the gentleman will suffer an interruption right there, I would like for a representative of the magazine to come to West Memphis now and see the facilities we have for our colored children.

Mr. GRANT. I want to say this to my colleague from Arkansas, they were returned, they were not published because such magazines take the attitude that nothing good can come out of the South. Therefore, they do not want to show the good part of anything.

Mr. GATHINGS. I could very easily show the gentleman some very fine buildings, as a matter of fact, some of the Negro schools in my congressional district are finer than the white schools.

Mr. GRANT. That is true.